

KNEBWORTH NEIGHBOURHOOD PLAN

Knebworth Neighbourhood Plan Examination
A Report to North Hertfordshire District Council

by Independent Examiner, Nigel McGurk BSc (Hons) MCD MBA MRTPI

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1. Summary

- 1 Subject to the recommendations within this Report, made in respect of enabling the Knebworth Neighbourhood Plan to meet the basic conditions, I confirm that:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - the making of the neighbourhood plan is not 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.

- 2 Taking the above into account, I find that the Knebworth Neighbourhood Plan meets the basic conditions¹ and I recommend to North Hertfordshire District Council that, subject to modifications, it should proceed to Referendum.

¹ It is confirmed in Chapter 3 of this Report that the Knebworth Neighbourhood Plan meets the requirements of Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990.

2. Introduction

The Neighbourhood Plan

- 3 This Report provides the findings of the examination into the Knebworth Neighbourhood Plan (referred to as the Neighbourhood Plan) prepared by Knebworth Parish Council.
- 4 As above, the Report recommends that the Neighbourhood Plan should go forward to a Referendum. At Referendum, should more than 50% of votes be in favour of the Neighbourhood Plan, then the Plan would be formally *made* by North Hertfordshire District Council.
- 5 The Neighbourhood Plan would then form part of the development plan and as such, it would be used to determine planning applications and guide planning decisions in the Knebworth Neighbourhood Area.
- 6 Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can shape, direct and help to deliver sustainable development.”

(Paragraph 29, National Planning Policy Framework)

- 7 As confirmed under “*Legal Requirements*” in paragraph 2.7 on page 3 of the Basic Conditions Statement, submitted alongside the Neighbourhood Plan, Knebworth Parish Council is the *Qualifying Body*, ultimately responsible for the Neighbourhood Plan.
- 8 Paragraph 2.7 of the Basic Conditions Statement also confirms that the Neighbourhood Plan relates only to the designated Knebworth Neighbourhood Area and there is no other neighbourhood plan in place in the Knebworth Neighbourhood Area.

- 9 This meets with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2021) and Planning Practice Guidance (2014).

Role of the Independent Examiner

- 10 I was appointed by North Hertfordshire District Council to conduct the examination of the Knebworth Neighbourhood Plan and to provide this Report.
- 11 As an Independent Neighbourhood Plan Examiner, I am independent of the Qualifying Body and the relevant Local Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.
- 12 I am a chartered town planner and have nine years' direct experience as an Independent Examiner of Neighbourhood Plans and Orders. I also have thirty years' land, planning and development experience, gained across the public, private, partnership and community sectors.
- 13 As the Independent Examiner, I must make one of the following recommendations:
- that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - that the Neighbourhood Plan, as modified, should proceed to Referendum;
 - that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements,
- 14 If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether the Referendum Area should extend beyond the Knebworth Neighbourhood Area to which the Plan relates.
- 15 Where modifications are recommended, they are presented as bullet points and highlighted in **bold print**, with any proposed new wording in *italics*.

Neighbourhood Plan Period

- 16 A neighbourhood plan must specify the period during which it is to have effect.
- 17 The title page of the Neighbourhood Plan refers to the plan period as "2019 – 2031."
- 18 Taking this into account, the Neighbourhood Plan meets the requirement in respect of specifying the period during which it is to have effect.

Public Hearing

- 19 According to the legislation, it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.
- 20 However, it is also the case that *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.
- 21 Further to consideration of the information submitted, I determined not to hold a public hearing as part of the examination of the Knebworth Neighbourhood Plan.
- 22 However, further to consideration of the submission documents, I wrote to the Qualifying Body in respect of matters where further information was sought. At the same time, in line with good practice, the Qualifying Body was provided with an opportunity to respond to representations received during the Submission consultation process.

3. Basic Conditions and Development Plan Status

Basic Conditions

- 23 It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “*basic conditions.*” These were *set out in law*² following the Localism Act 2011.
- 24 Effectively, the basic conditions provide the rock or foundation upon which neighbourhood plans are created. A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations; and
 - prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.
- 25 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to above. Of these, the following basic condition, brought into effect on 28th December 2018, applies to neighbourhood plans:
- 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.³

² Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

³ *ibid* (same as above).

- 26 In examining the Plan, I am also required, as set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act), to check whether the neighbourhood plan:
- has been prepared and submitted for examination by a qualifying body;
 - has been prepared for an area that has been properly designated for such plan preparation (under Section 61G of the Town and Country Planning Act 1990 (as amended));
 - meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one Neighbourhood Area and that:
 - its policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004.
- 27 An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁴
- 28 I note that, in line with legislative requirements, a Basic Conditions Statement was submitted alongside the Neighbourhood Plan and this sets out how, in the qualifying body's opinion, the Neighbourhood Plan meets the basic conditions.

⁴ The Convention rights has the same meaning as in the Human Rights Act 1998.

European Convention on Human Rights (ECHR) Obligations

- 29 I am satisfied, in the absence of any substantive evidence to the contrary, that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998.
- 30 In the above regard, information has been submitted to demonstrate that people were provided with a range of opportunities to engage with plan-making in different places and at different times. A Consultation Statement was submitted alongside the Neighbourhood Plan and the role of public consultation in the plan-making process is considered later in this Report.

European Union (EU) Obligations

- 31 In some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment. In this regard, national advice states:

“Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”
(Planning Practice Guidance⁵)

- 32 North Hertfordshire District Council produced a Screening Determination for the Neighbourhood Plan. Amongst other things, this took into account the fact that the Neighbourhood Plan does not allocate sites for development, and that the Neighbourhood Plan includes safeguards to help mitigate potential environmental impacts of development proposed in the emerging North Hertfordshire Local Plan.

- 33 The Screening Determination concluded that

“The Knebworth Neighbourhood Plan is not likely to have significant environmental effects and therefore a Strategic Environmental Assessment is not required.”

⁵ Planning Guidance, Paragraph 027, Ref: 11-027-20150209.

- 34 The statutory bodies, Historic England, Natural England and the Environment Agency were all consulted. Historic England and Natural England concurred with the conclusion of the Screening Determination. Natural England commented

"It is our advice, on the basis of the material supplied with the consultation, that, in so far as our strategic environmental interests (including but not limited to statutory designated sites, landscapes and protected species, geology and soils) are concerned, that there are unlikely to be significant environmental effects from the proposed plan."

- 35 The Environment Agency stated that the Neighbourhood Area includes land located on aquifers and Source Protection Zones which need to be considered where development or growth is proposed. The Environment Agency stated that an SEA covering any related risks may not be necessary where the Local Plan's Sustainability Appraisal has already appraised any such risks.
- 36 In addition to SEA, a Habitats Regulations Assessment identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans and projects. This Assessment must determine whether significant effects on a European site can be ruled out on the basis of objective information⁶. If it is concluded that there is likely to be a significant effect on a European site, then an appropriate assessment of the implications of the plan for the site must be undertaken.
- 37 Further to this, in the case *People Over Wind & Sweetman v Coillte Teoranta* ("People over Wind" April 2018), the Court of Justice of the European Union clarified that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. In practice this means that if a likely significant effect is identified at the screening stage of a habitats assessment, an Appropriate Assessment of those effects must be undertaken.
- 38 In response to this judgement, the government made consequential changes to relevant regulations through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, allowing neighbourhood plans and development orders in areas where there could be likely significant effects on a European protected site to be subject to an Appropriate Assessment to demonstrate how impacts will be mitigated, in the same way as would happen for a draft Local Plan or a planning application.

⁶ Planning Guidance Paragraph 047 Reference ID: 11-047-20150209.

39 The SEA Screening Report does not identify any European sites upon which the Neighbourhood Plan could have any effect. It also refers to a previous Habitats Regulations Assessment screening report produced by North Hertfordshire District Council, which states that *“there is not likely to be any significant combined impact on European sites from any plans or projects developed for the District.”*

40 Taking all of the above into account, I am mindful that national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations lies with the local planning authority:

“It is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a neighbourhood plan proposal submitted to it have been met in order for the proposal to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations (including obligations under the Strategic Environmental Assessment Directive)” (Planning Practice Guidance⁷).

41 Having completed the work that it has, North Hertfordshire District Council has no outstanding concerns in respect of the Neighbourhood Plan's compatibility with EU obligations and has stated that:

“It is the Council's view that the Neighbourhood Plan meets the basic conditions...”

42 Taking this and the recommendations contained in this Report into account, I am satisfied that the Neighbourhood Plan is compatible with European obligations.

⁷ ibid, Paragraph 031 Reference ID: 11-031-20150209.

4. Background Documents and the Knebworth Neighbourhood Area

Background Documents

- 43 In completing this examination, I have considered various information in addition to the Knebworth Neighbourhood Plan. I also spent an unaccompanied day visiting the Knebworth Neighbourhood Area.
- 44 Information considered as part of this examination has included the following main documents and information:
- National Planning Policy Framework (referred to in this Report as “*the Framework*”) (2021)⁸
 - Planning Practice Guidance (2014, as updated)
 - Town and Country Planning Act 1990 (as amended)
 - The Localism Act (2011)
 - The Neighbourhood Plan Regulations (2012) (as amended)
 - North Hertfordshire District Local Plan No.2 with Alterations (1996)
 - Basic Conditions Statement
 - Consultation Statement
 - Policies Maps
 - Representations received
 - Environmental Report and Habitat Regulations Assessment
- 45 Whilst a Neighbourhood Plan is not examined against the policies in an emerging plan, it is relevant to note that in the case of North Hertfordshire, the adopted Local Plan pre-dates the National Planning Policy Framework by a considerable period of time and that the emerging Local Plan has reached an advanced stage.
- 46 Planning Practice Guidance acknowledges that evidence relating to emerging plans may be a relevant consideration. In completing this examination, I have considered the emerging Local Plan and have been mindful that plan-makers have taken the emerging Local Plan and associated information into account.

⁸ The government published a revised version of the National Planning Policy Framework on the 20th July 2021, after the submission of the Knebworth Neighbourhood Plan.

Knebworth Neighbourhood Area

- 47 The boundary of the Knebworth Neighbourhood Area is identified in Figure 1 on page 8 of the Neighbourhood Plan.
- 48 North Hertfordshire District Council designated the Knebworth Neighbourhood Area on 14th June 2016.
- 49 The designation of the Neighbourhood Area satisfies a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

5. Public Consultation

Introduction

- 50 As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.
- 51 Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a 'Yes' vote at Referendum.

Knebworth Neighbourhood Plan Consultation

- 52 A Consultation Statement was submitted to North Hertfordshire District Council alongside the Neighbourhood Plan. The information within it sets out who was consulted and how, together with the outcome of the consultation, as required by the neighbourhood planning *Regulations*⁹.
- 53 In 2016, a Steering Committee was established to lead the plan-making process on behalf of Knebworth Parish Council. This was followed in early 2017 by the distribution of a questionnaire, comprising 2,000 survey forms, of which 366 were returned. The results of the questionnaire helped to inform the creation and workstreams of Working Groups
- 54 A presentation about the Neighbourhood Plan was made at the Parish Council's Annual General (AGM) Meeting in May 2017, followed by liaison with various local organisations and groups during the course of that year.
- 55 Surveys, two public open days, an AGM presentation and various meetings took place during 2018 and early 2019, followed by an Open Day attended by 175 people in March 2019. Feedback from this informed plan production and following more meetings and reviews, the draft Neighbourhood Plan was produced and consulted upon during March and May 2020.

⁹ Neighbourhood Planning (General) Regulations 2012.

- 56 A significant number of comments were received and these were duly recorded, considered and helped to inform the production of the submission version of the Neighbourhood Plan. The submitted Consultation Statement presents the Parish Council's detailed consideration of representations received.
- 57 In addition to the above, public consultation was supported throughout the plan-making stages by, amongst other things, regular updates in the Parish Newsletter, posters, newspaper articles, direct mail and emails, workshops and a range of meetings.
- 58 Taking the Consultation Statement and the above into account, I am satisfied that there is considerable evidence to demonstrate that public consultation was central to the plan-making process, that there were opportunities for people to have a say and that matters raised were duly considered.
- 59 Taking this and the submitted information into account, I am satisfied that the consultation process for the Knebworth Neighbourhood Plan was robust and that it complied with the neighbourhood planning regulations referred to above.

6. The Neighbourhood Plan – Introductory Section

- 60 Parts of the Neighbourhood Plan have been overtaken by subsequent events, including publication of the 2021 National Planning Policy Framework ("*the Framework*") and references to the emerging Local Plan. This has led to a number of recommendations below.
- 61 The AECOM report referenced in the Neighbourhood Plan provides neighbourhood masterplanning and design guidelines. It is not a Design Code and does not form part of the Neighbourhood Plan, but is appended to it. The report provides helpful and useful guidance and a recommendation below seeks to provide clarity in this regard.
- 62 The Policies Map should form part of the Neighbourhood Plan rather than be appended to it.
- 63 There is no evidence to demonstrate that the Neighbourhood Plan *will deliver* the Objectives set out. The Neighbourhood Plan *aims* to meet the identified Objectives.
- 64 I recommend:
- **Page 9, change third para to "...2021 National Planning...(NPPF, July 2021)**
 - **Page 9, delete fourth para ("In...lives.")**
 - **Page 9, change fifth para to "The NPPF *supports* the involvement of local..."**
 - **Page 10, delete second full para and replace with "*The emerging North Hertfordshire District Council Local Plan (referred to as "the emerging NHDCLP" in this Neighbourhood Plan) had reached an advanced stage by the time of the examination of the Neighbourhood Plan. The emerging NHDCLP and its evidence base have provided important background information for the Neighbourhood Plan.*"**
 - **Page 10, change third full para to "In the *emerging* NHDCLP..."**

- Page 10, change end of fourth full para to “...by the *emerging* NHDCLP and additionally, through the Neighbourhood Plan.” (delete rest of sentence)
- Page 10, delete fifth, sixth and seventh full paras (“If the proposed...*emerging* NHDCLP.”)
- Para 1.4, line one, change to “...established *and this was* chaired...”
- Para 1.5, change to “...parish in the *emerging* NHDCLP...”
- Para 1.6, change to “...from the *emerging* NHDCLP...”
- Para 1.7, third and fourth para, change to “...chapter on design *guidance, included as Appendix K to the Neighbourhood Plan. Other parts of...or access proposals but are intended as helpful guidance.*” (delete rest of fourth para)
- Para 3.4, change title to “Policies and Policies *Maps.*” Change first line to “...the *emerging* NHDCLP...” and change fifth line to “The *Policies Maps on pages XX and XX* should be read...” (NB, page numbers will be determined as the recommended changes are made)
- Move Policies Maps from Appendix A to the body of the plan, following on from the end of the Policy (and Implementation) section of the plan

7. The Neighbourhood Plan – Neighbourhood Plan Policies

Development Strategy

Policy KBDS1: Retention of Separation Between Settlements

- 65 The majority of the Neighbourhood Area is designated as Green Belt. The purposes of Green Belt, as set out in Paragraph 138 of the National Planning Policy Framework (“the Framework”), include preventing neighbouring towns from merging into one another, checking unrestricted sprawl and assisting in safeguarding the countryside from encroachment.
- 66 Given this, open land in the Neighbourhood Area situated between established settlements is already protected and thus, policy already exists to retain separation between settlements. Paragraph 16 of the Framework requires plans to avoid:
- “...unnecessary duplication of policies that apply to a particular area...”*
- 67 As set out, Policy KBDS1 states that it will “*encourage*” development within Knebworth village boundary, but there is no information to establish how such encouragement might come about. The Policy goes on to state that proposals that have any impact on Knebworth village’s special character, whatsoever – ie, either positive or negative, will not be supported.
- 68 Clearly it is not the intention of the Policy to prevent development that impacts positively on the Neighbourhood Area and the supporting text to the policy indicates that this is the case. I take this into account in the recommendations below.
- 69 Figure 9 states that there is a “*strategic gap*” between Knebworth, Stevenage and Bragbury End. There is no substantive evidence to demonstrate that this is the case.
- 70 It is not necessary and it detracts from the clarity of the Neighbourhood Plan, to include a commentary on information in respect of the emerging District-wide Local Plan.

71 Taking the above into account, I recommend:

- **Change the title of Policy KBDS1 to “*Knebworth Village Character*”**
- **Replace the text of Policy KBDS1 with “*Development should respect or enhance the special character of Knebworth village.*”**
- **Para 4.1, delete “The following objective relates...nearby towns and villages”**
- **Para 4.2, delete all supporting text and delete Figure 9**

Policy KBDS2: Density of Housing Development

- 72 The first sentence of Policy KBDS2 does not make sense. The statement that densities could vary on a large site does not necessarily follow on from the requirement at the beginning of the sentence. Rather, taken literally, the requirement could logically result in lots of very similar buildings across a large site.
- 73 Further, in the absence of clarity, it is not clear what *"in sympathy"* comprises, who would judge this, or on what basis. As such, the Policy does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.
- 74 However, in general terms, Policy KBDS2 aims to ensure that the density of development respects local character, having regard to:
- "...the desirability of maintaining an area's prevailing character and setting..."*
(Paragraph 124, the Framework)
- 75 In this regard, the Policy meets the basic conditions.
- 76 The Policy goes on to compel all development proposals to reference AECOM Guidelines. As noted earlier in this Examiner's Report, whilst the AECOM Report provides helpful information it does not form part of the Neighbourhood Plan. It presents general information and guidance rather than policy requirements. I make a recommendation in respect of the AECOM Report below.
- 77 The Policy ends with a reference to *"inappropriately high housing density."* This is unsupported by substantive information in respect of precisely what *"inappropriately high housing density for its location"* would comprise and consequently, this appears as a vague reference, open to subjective and wide-ranging interpretation.

- 78 As such, this part of the Policy would be contrary to national guidance, which requires planning policies to be unambiguous¹⁰:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

- 79 I recommend:

- **Policy KBDS2, delete first sentence (The...vary.)**, penultimate and last sentences (Reference...supported.)
- **Para 4.3, change first line to “The *emerging* NHDCLP...”**
- **Para 4.3, change second para to “In order to guide development...for development sites allocated in *emerging* NHDCLP Policies KB1, KB2 and KB4.”**

¹⁰ Planning Guidance, Paragraph: 041 Reference ID: 41-042-20140306.

Local Economy

Policy KBLE1: New Businesses

- 80 The supporting text to Policy KBLE1 establishes that the Policy aims to reverse a recent loss of businesses from Knebworth by encouraging the expansion of existing businesses and the creation of new ones.
- 81 This has regard to Paragraph 81 of the Framework, which states that:
- “Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.”*
- 82 However, notwithstanding the above, as set out Policy KBLE1 requires development to have no adverse impact at all on any local amenities or traffic conditions. This could prevent the balanced consideration of a planning proposal and place an obstacle in the way of the Neighbourhood Plan's contribution to the achievement of sustainable development.
- 83 Also, as set out, the Policy appears to seek to limit support for new business space to a very small part of the Neighbourhood Area. Such an approach does not have regard to national policy, as referred to above and it appears confusing when considered alongside other Policies in the Neighbourhood Plan, which would support new business uses in other parts of the Neighbourhood Area.
- 84 Taking everything into account, I recommend:
- **Policy KBLE1, change policy text to *“Proposals for new or expanded commercial space outside the Green Belt will be supported subject to such development respecting local character, residential amenity and highway safety.”***
 - **Para 5.2, change ref at end of first para to *“...proposed in the emerging NHDCLP.”* and change ref on last line of next para to *“consistent with emerging NHDCLP Policy...”***

Policy KBLE2: Rural Businesses

85 Paragraph 84 of the Framework is explicit in stating that planning policies should enable:

"...sustainable rural tourism and leisure developments which respect the character of the countryside."

86 In promoting the development of rural businesses, Policy KBLE2 has regard to national policy.

87 As set out, the Policy includes a vague reference to *"likely to be supported."* This detracts from the precise nature of the Policy and does not have regard to national guidance, referred to earlier in this Report.

88 Further, the Policy is worded such that it is entirely reliant upon other policies in other documents, beyond the scope of the Neighbourhood Plan; and does not set out what accessibility requirements are, or what minimal traffic impact comprises, who will judge this or on what basis.

89 I recommend:

- **Change heading to "5.3 Policy KBLE2 Rural Businesses"**
- **Policy KBLE2, change to "...tourism uses *will be supported where they are well designed and proportionate to existing buildings, and respect local character, residential amenity and highway safety.*"**
- **Para 5.3, change reference to "(emerging NHDCLP..."**
- **Para 5.3, fourth para change to "The *emerging* NHDCLP..."**
- **Para 5.3, last para, change to "...with *emerging* NHDCLP..,"**

Policy KBLE3: Village Centre and Existing Businesses

90 National policy recognises the role that:

"...centres play at the heart of local communities..."

(Paragraph 86, the Framework)

91 Further, in addition to promoting good design, the Framework goes on to promote:

"...strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections...and active street frontages..."

(Paragraph 92, the Framework)

92 In addition, Paragraph 93 of the Framework goes on to state that, in order to provide the facilities and services the community needs, planning policies should:

"...guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs..."

93 In general terms, Policy KBLE3 recognises the importance of the range of uses in Knebworth and seeks to protect these for the benefit of the community. In this way, the Policy meets the basic conditions.

94 As set out, the Policy is vague in respect of where it applies. No "village centre" is defined in the Neighbourhood Plan. However, the "Retail Area" is defined in the Neighbourhood Plan and a recommendation is therefore made in this regard.

95 The Policy also appears vague in respect of where a "building line" should be fixed and notwithstanding this, this part of the Policy is not supported by substantive evidence demonstrating that the related requirements are deliverable. Also, it is not clear, in the absence of information, why the Policy would support the change of use of identified businesses to any use other than residential and I am unable to conclude that this part of the Policy contributes to the achievement of sustainable development.

- 96 No evidence is provided to demonstrate that the Policy would, having regard to Paragraph 16 of the Framework, be deliverable, or, having regard to Paragraph 57 of the Framework, why it would be necessary, directly related to the development and fairly and reasonably related in scale and kind to the development, for the loss of pubs or any other commercial buildings to be prevented for any reason other than the provision of land for a flexible business space/workshop.
- 97 It may be that it is simply unviable for a specific business to continue in its current location. In this case, without any substantive justification, there is nothing to demonstrate that requiring a change of use to be dependent upon the provision of land or a building for a flexible workspace (rather than for say, provision of workspace) – regardless of relevance, demand, deliverability, availability of land, viability etc – has regard to national policy requirements, or contributes to the achievement of sustainable development.
- 98 In addition to the above, no indication is provided of how the Neighbourhood Plan would “resist” the loss of business premises and consequently, the final part of the Policy is unclear.
- 99 I recommend:
- **Change title and subsequent title in Green Box to “Policy KBLE3 Retail Area and Existing Businesses.”**
 - **Policy KBLE3, delete first para and replace with “In the Retail Area, development requiring planning permission should retain retail or service uses. Also in the Retail Area, existing premises with ground floor access should retain an active retail frontage and new buildings should create new active retail frontage.”**
 - **Policy KBLE3, delete second para and replace with “Redevelopment in the Retail Area along London Road should retain the characteristically wide footway.”**
 - **Policy KBLE3, delete third and fourth paras and replace with “The change of use of commercial land, including at 1 Stockens Green, 1 Stevenage Road, The Station and The Lytton Arms pubs, the radio station Old Knebworth Lane, and 2 Station Approach, will not be supported unless it can be demonstrated, further to at least 12 months active and open marketing, that the uses are no longer viable.”**

- **Para 5.4 change references in supporting text from village centre to “Retail Area” and change second para to “...Centres (*emerging* NHDCLP) survey...”**

Policy KBLE4: Community Businesses

100 In order to provide the services that communities need, Paragraph 93 of the Framework requires planning policies to:

"...plan positively for the provision and use of shared spaces, community facilities...and other local services to enhance the sustainability of communities and residential environments."

101 Policy KBLE4 supports the provision of community businesses and has regard to national policy.

102 No indication is provided of how the Policy would encourage provision of flexible buildings and I recommend:

- **Policy KBLE4, delete "encouraged and"**
- **Para 5.5, change first line to "The *emerging* NHDC..." and change line three to "...also *minimise* the need..."**
- **Para 5.5, change second para to "...suitable employment (*emerging NHDCLP*)."**

Policy KBLE5: Home Working

- 103 Generally, working from home does not require planning permission, but where it does it can raise issues in respect of residential amenity, local character and highway safety.
- 104 As set out, Policy KBLE5 would prevent any form of home working development requiring planning permission that would have an undefined "*unacceptable*" impact on "*amenities*."
- 105 Such an approach fails to provide for the balanced consideration of a planning proposal, allowing for the consideration of both the harm and the benefits which might arise. As a consequence, the Policy places an obstacle in the way of the Neighbourhood Plan contributing to the achievement of sustainable development, contrary to the basic conditions.
- 106 I recommend:
- **Policy KBLE5 change to "...supported, subject to *development respecting residential amenity, local character and highway safety*."**

Policy KBLE6: Telecommunications

107 National policy recognises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It states that planning policies should:

"...support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections."

(Paragraph 114, the Framework)

108 In general terms, Policy KBLE6 promotes the provision of high-speed communications infrastructure and has regard to national policy.

109 As set out, the Policy applies to all forms of development. Most forms of development tend to be small-scale, for example householder development and there is no evidence to demonstrate that the requirements of the Policy are deliverable, having regard to Paragraph 16 of the Framework which states that:

"Plans should be prepared positively, in a way that is aspirational but deliverable."

110 The Qualifying Body has since confirmed that the Policy should apply to major development. Taking this and the above into account, I recommend:

- **Policy KBLE6, change to *"In respect of major development, developers will be expected to...business use. This may include..."***

Built Environment

Policy KBBE1: Housing mix

111 Chapter 5 of the Framework, "*Delivering a sufficient supply of homes,*" seeks to support the Government's objective of significantly boosting the supply of homes and providing for:

"...the size, type and tenure of housing needed for different groups in the community..."

(Paragraph 62, the Framework)

112 Policy KBBE1 seeks to ensure that the Neighbourhood Plan contributes to the provision of an appropriate mix of housing in the Neighbourhood Area and in this way, it meets the basic conditions.

113 However, as worded, the Policy is reliant upon a document that has not been adopted and which is outside the scope of the Neighbourhood Plan and this is addressed below.

114 I recommend:

- **Policy KBBE1, change to "...Neighbourhood Plan *area*, whilst *providing* a range of types..."**
- **Para 6.1, second para, change to "The *emerging* NHDCLP..."**
- **Para 6.2, change first para to "...Plan area should not be visibly distinguishable from others...Affordable homes *should* be provided..."**
- **Change reference in Para 6.2 from starter homes to "*first homes.*"**

Policy KBBE2: Sustainable Buildings

115 Chapter 14 of the Framework, "*Meeting the challenge of climate change, flooding and coastal change,*" states that:

"The planning system should support the transition to a low carbon future in a changing climate...It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions...and support renewable and low carbon energy and sustainable infrastructure."

(Paragraph 152, the Framework)

116 In general, Policy KBBE2 seeks to promote a move towards improving sustainability and amongst other things, achieving zero carbon. The aspirations of the Policy have regard to national policy.

117 However, the transition to a more sustainable world is not an instant fix and there is no legislative framework to simply allow the imposition of requirements on development, regardless of viability and deliverability. This is taken into account in the recommendations below and is also a relevant factor in respect of the consideration of other Policies against the basic conditions, later in this Report.

118 Part of Policy KBBE2 is reliant upon a draft policy in another planning document beyond the scope of the Neighbourhood Plan and again, this is addressed below. I also note that the Policies of the development plan should be considered together and that this prevents the need for cross-referencing within Policies.

119 I recommend:

- **Change wording of Policy KBBE2 to "*Construction methods that engage low energy principles, including modular building that respects local character; the utilisation of simple design solutions such as orientation of buildings to optimise solar gain, with the aim of transitioning towards zero carbon energy usage; domestic scale (micro) energy generation from renewable or low carbon sources; and providing for rainwater harvesting and greywater recycling, will be supported.*"**
- **Para 6.3, change to "*...in the emerging NHDCLP, Policy KBBE2 seeks to promote sustainable construction techniques and a move towards zero carbon. Further recommendations...*"**

Policy KBBE3: Accessibility and Adaptability

120 Paragraph 62 of the Framework promotes new housing development to meet the needs of different groups in the community including:

"...older people...people with disabilities..."

121 Policy KBBE3's aspirations for the delivery of homes that are accessible and adaptable has regard to national policy.

122 However, as set out, Policy KBBE3 simply requires that all housing is accessible and adaptable. No substantive evidence is provided to demonstrate that such an onerous requirement has regard to the need for plans to be deliverable, or that it has regard to Paragraph 57 of the Framework, referred to earlier in this Report.

123 I recommend:

- **Change title to "6.4 Policy KBBE3 Accessibility and Adaptability"**
- **Policy KBBE3, change to "*Within major developments, the provision of accessible and adaptable homes, providing flexible internal space to allow homes to be adaptable to changing needs without major reconstruction, will be supported.*"**
- **Para 6.4, change first para to "*The National Design Guide and the Building for a Healthy Life toolkit provide guidance aimed at enhancing the benefits of new residential development. For example...garden areas can be designed...*"**
- **Para 6.4, change last sentence to "*Further guidance is contained in the 8 Principles...Architecture Centre.*"**

Policy KBBE4: Design

124 National planning policy recognises that:

“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

(Paragraph 126, the Framework)

125 Policy KBBE4 seeks to promote good design and has regard to the Framework.

126 As set out, it is not clear why (or how) all development should be *“sympathetic in design to surrounding buildings.”* Some development sites, by their very nature, are not surrounded by buildings and there is no substantive evidence to demonstrate that all buildings in the Neighbourhood Area are of such quality, or good design, as to warrant providing an exemplar to be sympathetic to.

127 Further, the reports referred to in the supporting text do not only focus on existing buildings but recognise the range of factors that combine to create local character. It is not clear, in the absence of any detail, how the Policy's requirement in the above regard contributes to the achievement of sustainable development.

128 Similarly, the Neighbourhood Plan and supporting material points out how not all development in the Neighbourhood Area, particularly post-war housing, corresponds to Garden Village principles. This introduces a conflict in the Policy requirement for development to be appropriate to a Garden Village *and* be sympathetic to surrounding buildings, regardless of the form and appearance of any such buildings.

129 There is no information to demonstrate what *“the highest current design standards”* comprise and this part of the Policy appears subjective and does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.

130 The Policy does not distinguish in respect of what *“appropriate”* bin storage comprises and goes on to rely upon other documents outside the scope of the Neighbourhood Plan.

- 131 The Policy page includes photographs of developments from outside the Neighbourhood Area and the District. They do not relate directly to the Policies of the Neighbourhood Plan, leading their inclusion to appear confusing and to detract from the clarity of the document.
- 132 Part of the wording of the supporting text is set out as though it comprises a Policy, which it does not.
- 133 Policy KBBE4 does not remove permitted development rights. Whilst this may be a Parish Council aspiration, the approach to garages set out in the Neighbourhood Plan appears confusing, as the supporting text sets out an approach to garage development that is different to that in the Policy.
- 134 Taking the above into account, I recommend:

- **Policy KBBE4, delete wording and replace with “*All development must demonstrate good design. Development must respect local character, which includes Knebworth’s Garden Village context. New housing development should incorporate sensitively designed car parking, bin storage, cycle storage and electric charging for bicycles and motor vehicles.*”**

- **Delete photos on page 33**

- **Para 6.5, change to “*Policy KBBE4 seeks to promote good design and is intended to ensure that new development responds to...spaces. In this way, building forms...appearance can be considerate...village.***

The low-rise...dwellings are expected to continue to be the norm, with new development being sympathetic...areas.

Responding...emphasis can be placed...”

- **Delete all supporting text from “Most local authorities appear...” to the end of the supporting text (“...private car ownership.”)**

Policy KBBE5: Masterplanning and Placemaking

135 The first paragraph of Policy KBBE5 is reliant upon another plan, that has not been adopted and which is beyond the scope of the Neighbourhood Plan. Consequently, it is recommended for deletion below.

136 In general, the rest of the Policy promotes good design and has regard to Chapter 12 of the Framework, "*Achieving well-designed places.*"

137 However, it is not clear, in the absence of any information, how the Policy might "*encourage*" a choice of walking routes and there is no evidence to demonstrate that a requirement for underground parking to be incorporated at every opportunity is deliverable. Also, the AECOM Report is clearly referenced in the supporting text and does not need to be referenced in the Policy itself.

138 Taking the above into account, I recommend:

- **Policy KBBE5, delete first para ("New...understood.")**
- **Policy KBBE5, change rest of Policy to "*Major new residential development should be legible, safe, accessible, encourage social interaction and provide a choice of walking and/or cycle routes. Residential parking should be safe and convenient and should not undermine the quality and amenity of streets. Parking should predominantly be on plot, to the side or front in the case of houses, or in parking courts for flats. Underground parking as a solution to minimise land take for car parking will be supported. Vehicle barriers, gated housing developments and narrow footpaths between high sided walls or fences should be avoided.*"**

Policy KBBE6: Site KB1 Land at Deards End

- 139 As set out, the first part of Policy KBBE6 is reliant on another plan that has not been adopted and which is outside the scope of the Neighbourhood Plan.
- 140 In general, Policy KBBE6 seeks to encourage good design in respect of the allocation at Deards End in the emerging Local Plan and this has regard to Paragraph 126 of the Framework.
- 141 However, as set out the Policy requires adherence to imprecise things – for example, it is not clear how development densities might be appropriate to a site boundary or a hedgerow, nor where residential development should be offset, nor on what basis, in respect of the relevant levels of noise and air pollution.
- 142 Consequently, the Policy appears vague and imprecise and does not have regard to Planning Guidance referred to earlier in this Report and does not provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.
- 143 The provision and location of green infrastructure are matters that will emerge from masterplanning, further to detailed technical work in respect of a wide range of factors including, but not limited to, surface water run-off, noise, air quality, public open space, footpaths and land use layouts. Given this, the Policy requirements requiring strict adherence to offsets and green spaces appear premature in the absence of substantive justification. As such, the Policy runs the risk of placing an obstacle in the way of the Neighbourhood Plan's contribution to sustainable development.
- 144 In the above regard, I am mindful that the AECOM Report provides some guidance but does not define development areas or other areas of allocations in the emerging Local Plan.
- 145 Representations have set out that there is no clear delivery mechanism for the provision of new sports facilities as required by the Policy and in the absence of evidence to the contrary, I am unable to conclude that this element of Policy KBBE6 is deliverable.

146 I recommend:

- **Policy KBBE6, delete wording and replace with “*Development at Deards End (KB1) should: a) be developed at densities that respect local character and Knebworth’s Garden Village context; b) seek to mitigate the effects of A1 (M) noise and air pollution; c) provide a green buffer where the site meets open fields and woodland.*”**
- **Delete the three lines of supporting text underneath the Policy**

Policy KBBE7: Site KB2 Land off Gipsy Lane

- 147 Similarly to Policy KBBE6, the first part of Policy KBBE7 relies on another plan, that has not been adopted and which is outside the scope of the Neighbourhood Plan.
- 148 Whilst in general, Policy KBBE8 seeks to encourage good design in respect of the allocation at Gipsy Lane in the emerging Local Plan and has regard to Paragraph 126 of the Framework, it also requires adherence to imprecise requirements unsupported by substantive evidence.
- 149 Consequently, part of the Policy appears vague, imprecise and does not have regard to Planning Guidance or provide a decision maker with a clear indication of how to react to a development proposal, having regard to national policy.
- 150 I am mindful that representations have been made in reference to the absence of a clear delivery mechanism for the provision of new sports facilities as required by the Policy. In the absence of evidence to the contrary, I am unable to conclude that this element of Policy KBBE7 is deliverable.
- 151 National policy requires heritage assets to be conserved or enhanced and I have made a recommendation in this regard below.
- 152 Requirements in respect of access and movement will also emerge from the detailed masterplanning process. In this respect, I note that the requirements in respect of Gipsy Lane appear ambiguous and introduce potential for conflict – the Policy calls for removing vehicles from Gipsy Lane, reducing vehicles on Gipsy Lane and simply providing new footways along Gipsy Lane – resulting in an imprecise Policy.
- 153 As above, the AECOM Report provides guidance but does not define development or other areas of allocations in the emerging Local Plan.

154 I recommend:

- **Policy KBBE7, delete wording and replace with “*Development at Gipsy Lane (KB2) should: a) be developed at densities that respect local character and Knebworth’s Garden Village context; b) conserve or enhance the setting of the Stockens Green Conservation Area; c) seek to mitigate the effects of A1 (M) noise and air pollution.*”**
- **Delete the three lines of supporting text underneath the Policy**

Policy KBBE8: Site KB4 Land east of Knebworth

- 155 Similarly to the previous two Policies, the first part of Policy KBBE8 relies on another plan that has not been adopted and which is outside the scope of the Neighbourhood Plan.
- 156 In general terms, Policy KBBE8 seeks to encourage good design in respect of the allocation of land east of Knebworth in the emerging Local Plan and in this way it has regard to Paragraph 126 of the Framework.
- 157 However, similarly to previous Policies, part of the Policy appears premature to the detailed masterplanning process in requiring adherence to imprecise requirements and this results in an ambiguous Policy that does not have regard to Planning Guidance or provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 16 of the Framework.
- 158 Also, the Policy includes a requirement for a community centre that is unsupported by evidence in respect of deliverability or regard to Paragraph 57 of the Framework, referred to earlier in this Report.
- 159 The AECOM Report provides guidance but does not define development or other areas of allocations in the emerging Local Plan.

160 I recommend:

- **Policy KBBE8, delete wording and replace with “*Development on land east of Knebworth (KB4) should: a) be developed at densities that respect local character and Knebworth’s Garden Village context; b) seek to improve pedestrian access and safety along Watton Road and Swangleys Lane; c) provide a green buffer to open fields.*”**
- **Delete the three lines of supporting text underneath the Policy**

Wellbeing

Policy KBW1: Community Facilities and Services

161 Chapter 8 of the Framework, "*Promoting healthy and safe communities,*" requires planning policies to:

"...guard against the unnecessary loss of valued facilities...ensure that...facilities and services...are retained for the benefit of the community."

(Paragraph 93, the Framework)

162 Paragraph 93 of the Framework goes on to require planning policies to:

"...plan positively for the provision and use of shared spaces, community facilities...and other local services to enhance the sustainability of communities and residential environments."

163 This sets out a positive policy framework for the retention and provision of community facilities and services.

164 Policy KBW1 requires all commercial and residential development to sustain and enhance community facilities in line with population increases and in line with "*trends;*" to facilitate and increase the opportunity for recreation and improving health and wellbeing; to demonstrate that all new services, amenities, facilities and buildings are accessible for all; to ensure that the GP Surgery is retained; to identify likely impacts on facilities and services; and for any provision to be discussed with the Parish Council.

165 Whilst the general aim of the Policy in respect of promoting new and sustained community facilities has regard to national policy, the requirements summarised above are onerous, vague and unsupported by evidence of deliverability. There is no substantive information to demonstrate that individually, or cumulatively, the requirements meet the policy test for planning obligations set out in Paragraph 57 of the Framework and referenced earlier in this Report.

166 I also note that, whilst early engagement in planning matters is valuable, developers cannot be required to engage with the Parish Council or the Local Planning Authority, ahead of a planning application, having regard to Paragraph 40 of the Framework.

167 Whilst the Qualifying Body has since confirmed that the Policy was aimed at development, this does not resolve the issues identified above.

168 I recommend:

- **Policy KBW1, delete text and replace with *“The development of new or enhanced community facilities and services, including those that increase opportunities for recreation and health and wellbeing, will be supported.”***

Policy KBW2: Local Green Space

169 Local communities can identify areas of green space of particular importance to them for special protection. Paragraph 101 of the Framework states that:

“The designation of land as a Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them.”

170 Paragraph 103, of the Framework requires policies for the managing of development within a Local Green Space to be consistent with those for Green Belts. A Local Green Space designation therefore provides protection that is comparable to that for Green Belt land. Consequently, Local Green Space comprises a restrictive and significant policy designation.

171 Given the importance of the designation, Local Green Space boundaries should be clearly identifiable. Whilst the Policies Maps indicate the general location of areas of Local Green Space, it is not possible to clearly determine the precise boundaries of each area. This is a matter addressed in the recommendations below.

172 The Local Green Space tests set out in the Framework are that the green space is in reasonably close proximity to the community it serves; that it is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and that it is local in character and is not an extensive tract of land.

173 The Neighbourhood Plan provides clear and detailed evidence to demonstrate why each area of Local Green Space is demonstrably special and meets the national policy tests set out in the Framework.

174 Further to the above I am mindful that national policy is explicit in respect of requiring policies for managing development within a Local Green Space to be consistent with those for Green Belts. The wording of Policy KBW2 introduces considerable scope for inconsistency with Green Belt policy and this is a matter addressed in the recommendations below.

175 I recommend:

- **Policy KBW2, delete first sentence and replace with “*The five areas listed below and shown on the Figures following this Policy are protected as areas of Local Green Space. The management of development within areas of Local Green Space will be consistent with that for development within Green Belts as set out in The National Planning Policy Framework.*”**

LGS1 Watton...LGS5 Allotments, Watton Road”

- **Retain the references in the Policies Maps and provide detailed Figures showing the precise boundaries of each designated area of Local Green Space. These could be on individual or shared plans, the only requirement being that the boundary of each Local Green Space is presented so clearly as to be beyond dispute. These Figures should be provided below the wording of Policy KBW2**
- **Para 7.2.3, page 43, first full para, change to “...in para 102 of the NPPF...”**

Policy KBW3: Recreational Green Spaces

176 The opening paragraph of Policy KBW3 requires all development (since stated by the Qualifying Body as relating to major development only) to provide various things without any substantive evidence to demonstrate that the obligations set out have regard to Paragraph 57 of the Framework, or that the Policy is deliverable, having regard to Paragraph 16 of the Framework.

177 The Policy goes on to refer to “*very special circumstances*” without any indication of what such circumstances comprise, who would determine them and on what basis. The phrase “*very special circumstances*” is associated with the Green Belt and as such, forms part of a carefully nuanced approach to development within the Green Belt, as set out in Chapter 13 of the Framework, “*Protecting Green Belt land.*” In the absence of any substantive information, it is not clear how a decision maker might treat very special circumstances in the context of Policy KBW3.

178 Notwithstanding the above, I note that whilst the sites included in Policy KBW3 are already afforded planning policy protection, in general terms, Policy KBW3 has regard to Paragraph 99 of the Framework, which states that:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless...surplus to requirements...replaced by equivalent or better provision...development is for alternative sports and recreation provision...”

179 I note that the Local Planning Authority is the relevant decision-making body and that the Neighbourhood Plan cannot permit or refuse development.

180 I recommend:

- **Policy KBW3, delete the first two paragraphs (“Development...demonstrated:”) and replace with “*The loss of the following Recreation Green Spaces will not be supported unless they are replaced with better facilities at least as accessible to the local community as the current spaces: (list of 5 sites here).*”**
- **Change last sentence to “...will not be supported unless...”**

Policy KBW4: Valued Community Facilities

- 181 As noted above, national policy supports the retention of community facilities. Generally, Policy KBW4 seeks to retain community facilities and has regard to the Framework.
- 182 As set out, the first sentence of the Policy states that community facilities should be retained in community use *"if possible."* This part of the Policy is vague and does not provide a decision maker with a clear indication of how to react to a development proposal.
- 183 Whilst I note that Assets of Community Value are, by their very nature, protected as such, it is clear from the supporting text that the aim of the Policy is to afford protection to valued community facilities and taking this and the above into account, I recommend:
- **Policy KBW4 delete text and replace with *"In order to maintain an inclusive village community, the valued and potentially vulnerable community facilities listed below should be retained in their current use unless:***
 - a) They are no longer needed/there is no demand for them;***
 - b) They are replaced by better community facilities in locations accessible to the local community"***

Policy KBW5: Allotments

184 Whilst allotments are widely recognised as important community facilities, Policy KBW5 simply imposes a requirement on all major development without any substantive evidence in respect of deliverability or meeting the relevant tests for planning obligations, having regard to the Framework.

185 Taking this into account, I recommend:

- **Policy KBW5 replace the Policy wording with *“The provision of new allotments to meet local demand will be supported.”***
- **Delete the last sentence of the first paragraph of supporting text below the Policy (If...sites”) and replace it with: *“The Parish Council will seek the provision of new allotment areas, including within proposed major development sites.***
- **Change the second paragraph of supporting text to: *“The Parish Council is keen to find around 1.5 hectares of land for use as allotments. This would be in general accordance with The Allotment Association...providing allotments. The Parish Council will seek to work with developers to identify...allotment provision.”***

Schools

Policy KBS1: Existing Primary School

- 186 In the absence of any substantive information, it is not clear how the Neighbourhood Plan can seek to control how a school is operated.
- 187 The Local Education Authority has provided no comments or clarity in this regard.
- 188 Taking the above into account, the requirements of Policy KBS1 are unclear and I cannot reach the conclusion that the Policy is deliverable, having regard to Paragraph 16 of the Framework.
- 189 I recommend:
- **Delete Policy KBS1, supporting text and photographs**

Policy KBS2: NHDC Proposed New Primary School

190 As set out, Policy KBS2 and its supporting text appears largely focused on whether or not the possible provision of a school through the emerging Local Plan is justifiable.

191 Policy KBS2 is reliant upon another planning document that has not been adopted and is outside the scope of the Neighbourhood Plan.

192 I recommend:

- **Delete Policy KBS2 and supporting text**

Policy KBS3: Pre-School

193 Whilst there is support in the local community for a Pre-School, there is no substantive evidence to demonstrate that the Local Education Authority supports a new pre-school that can be co-joined with and use the facilities of either the existing or new primary school.

194 In the absence of such information, it is not possible to reach the conclusion that Policy KBS3 is deliverable, having regard to Paragraph 16 of the Framework.

195 I recommend:

- **Delete Policy KBS3 and supporting text**

Policy KBS4: KB4 School Site

196 The supporting text to Policy KB4 relates to the emerging Local Plan process. Policy KB4 is entirely reliant on the outcome of the emerging Local Plan process and appears premature in this regard.

197 National Green Belt policy is precisely that. It is not necessary for the Neighbourhood Plan to state what should or should not happen in the Green Belt.

198 Policy KBS4 is unnecessary and does not meet the basic conditions. I recommend:

- **Delete Policy KBS4 and supporting text**
- **Taking the recommendations in the Schools Chapter into account, I recommend that the whole of the Schools Chapter is removed from the Neighbourhood Plan and that reference to Objective O elsewhere in the Neighbourhood Plan be deleted**

Environment and Flooding

Policy KBEF1: Biodiversity

199 The Framework requires planning policies to contribute to and enhance the natural environment by

"...minimising impacts on and providing net gains for biodiversity..."
(Paragraph 174, the Framework)

200 Policy KBEF1 generally seeks to protect biodiversity and to promote net gains in biodiversity and in this respect, it has regard to the Framework.

201 However, as set out, the Policy places a sweeping requirement onto all forms of development, regardless of deliverability and this is a matter addressed in the recommendations below.

202 The final part of the Policy comprises a statement relating to the consideration of planning applications, rather than a land use planning policy. In this regard, I note that the Local Planning Authority is the relevant decision-maker.

203 Much of the supporting text is worded as though it comprises a Policy, which it does not.

204 I recommend:

- **Policy KBEF1, change to "*Development should minimise impacts on and provide net gains for biodiversity. Major development should: ...to minimise disruption...wooded areas.*"**
- **Change last para of Policy to "*...calculator can be taken into account...*" and move this paragraph to the start of the supporting text in Para 9.2**

- Para 9.2, delete the first sentence of supporting text (“This...developments”)
- Change the wording of the fourth, fifth and sixth paragraphs of supporting text under 9.2 to: *“It will be important for new developments, wherever possible, to retain existing trees, hedgerows and green road borders to minimise disruption to wildlife. Wherever possible, the removal of mature trees should be justified and access to the sites should be through natural breaks. Removal of hedgerows and verges for access is generally something that should only be considered as a last resort. In addition, it will be important for care to be taken to ensure that tree roots are not damaged as they may extend well past the crown of the tree itself.*

“The Parish Council is keen that a green infrastructure audit is carried out prior to developments, to help to provide a checklist for... developer-independent equivalent) could be used prior to any...ecological impact.

“The Parish Council is keen for landscaping schemes in new developments to encourage healthier ecosystems...aesthetically pleasing.”

- Para 9.2.3, change second line to “...decades. *The Parish Council would like to see these hedgerows retained...*” and change second para to “...in the emerging NHDCLP...Old Lane for preservation as part of any new development...”
- Para 9.2.4, change third para to “...move around and that *these connect to new or existing woods. Indeed, it is considered critical that the creation of such corridors takes account of the...*”
- Para 9.2.4, change fourth para to “*It is considered important for new wooded areas to be of a size and to contain enough...*”

Policy KBEF2: Environmental Pollution

205 Planning application requirements are set nationally and in respect of local requirements, by the Local Planning Authority. It is not within the scope of the Neighbourhood Plan to set out planning application requirements.

206 I recommend:

- **Delete Policy KBEF2 and supporting text**

Policy KBEF3: Energy Conservation

- 207 There is no local or national policy requirement for all new buildings to be carbon neutral in construction and in ongoing use. There is no substantive evidence to demonstrate that any such Policy requirement is deliverable, having regard to national policy.
- 208 Policies within the development plan should be considered together and in the absence of clarity, it is not clear how Policy KBEF3 might be considered "*subsidiary*" to another Neighbourhood Plan Policy, as set out in the supporting text.
- 209 However, taking information set out earlier in this Report into account, energy conservation and encouraging the transition towards carbon neutrality does have regard to national policy and I recommend:
- **Policy KBEF3, change to "*The use of best practice in energy conservation, water conservation and the re-use of building materials with the aim of transitioning towards buildings being carbon neutral in construction and in ongoing use will be supported.*"**
 - **Para 9.4, delete first para ("This...Knebworth") and change remaining text to "*...However, where this technique is used it is worthwhile being cautious to ensure that the plants used are not so vigorous...New developments can be designed to maximise natural...*"**

Policy KBEF4: Flooding and Drainage

- 210 Policy KBEF4 seeks to ensure that development reduces flood risk.
- 211 The Policy has regard to Chapter 14 of the Framework, "*Meeting the challenge of climate change, flooding and coastal change,*" which, amongst other things, seeks to ensure that development addresses flooding and flood risk.
- 212 As set out, the Policy applies to all forms of development. The requirements of the Policy may simply not be relevant to some forms of development and this is a matter taken into account in the recommendations below.
- 213 The planning decision-maker is the Local Planning Authority and it is not for the Neighbourhood Plan to consider planning applications "*favourably*" or unfavourably. Also, in the absence of any substantive information, it is not clear how the Policy can justify placing an imposition on householders in respect of the kind of materials they might choose to place on the ground within land under their control.
- 214 Rainwater harvesting and greywater recycling are covered by Policy KBBE2 earlier in the Neighbourhood Plan and it is unnecessary to repeat Policy requirements.
- 215 Part of the supporting text is presented as though it is a Policy, which it is not.
- 216 I recommend:
- **Policy KBEF4 change to "*Development should not result in a net increase in surface water run-off and should seek to reduce surface water run-off.*"**
 - **Para 9.5, delete first five paras ("*Although...and fauna*")**
 - **Para 9.5, page 66, last para, change to "*...flooding. This presents an opportunity to create an overall SuDS scheme that could enhance...*"**

- **Para 9.5, delete last para (“The...52).”) and replace with “*The use of SuDS is likely to comprise an important part of new development in Knebworth and sustainable drainage systems provide a potential solution for managing flood related issues.*”**

Policy KBEF5: Important Views and Character Areas

217 In general terms, Policy KBEF5 seeks to ensure that development respects important views and character areas. Such an approach has regard to Paragraph 130 of the Framework, which requires developments to be:

“...sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).”

218 However, as set out, the Policy adopts a more onerous, albeit vague, approach than that set out in the Framework. It requires views and character areas to be *“protected from the negative impact of any new development.”* Notwithstanding that such an approach appears to begin from the presumption that new development will necessarily have a negative impact, no indication is provided of what this negative impact might be, who will judge it or on what basis.

219 The Policy goes on to require all planning applications to include an assessment of the impact of development on the listed views and character areas. Notwithstanding that the Neighbourhood Plan cannot set planning application requirements, there is nothing to demonstrate that such a requirement would, in any case, be relevant to all planning applications and the approach does not have regard to Paragraph 44 of the Framework, in respect of keeping information requirements to the minimum needed to make decisions.

220 The Policy ends by stating that proposals will only be permitted where appropriate mitigation measures can be delivered. Again, notwithstanding that the decision-maker in respect of the determination of planning applications is the Local Planning Authority, it is not clear in the absence of any information, how a harmful impact will be determined, who by and on what basis; or what an appropriate mitigation measure will comprise and again, who will determine this and on what basis.

221 This final part of the Policy is vague and does not provide a decision maker with a clear indication of how to react to a development proposal and part of the supporting text is written as though it is a Policy, which it is not.

222 Taking all of the above into account, I recommend:

- Policy KBEF5, change opening sentence to *“Development must respect the important views and character areas identified on the Policies Map and listed below:”*
- Para 9.6, delete first two paras (“The location...n.d”)
- Para 9.6.1 last para, delete last sentence (“Site...skyline.”)
- Para 9.6.3, last para, change to “...maintained. *The Parish Council is keen to see that this is considered in the...*”
- Para 9.6.4, delete last sentence (“Any...appearance.”)
- Para 9.6.9, delete last sentence (“Any...view.”)
- Para 9.6.11, penultimate para, change to “...principles, *which provide important opportunities to influence new developments.*”
- Para 9.7.1, change start of second para to *“NPPF para 189 states “Where...”*
- Para 9.7.1, change end of para to *“...field evaluation.” The emerging NHDCLP notes that “Should archaeological...asset.””*

Policy KBEF6: Non-designated Heritage Assets

223 Chapter 16 of the Framework, "*Conserving and enhancing the historic environment*," recognises that the nation's heritage assets comprise an irreplaceable resource. Paragraph 189 of the Framework requires all heritage assets to:

"...be conserved in a manner appropriate to their significance..."

224 Chapter 16 goes on to set out a detailed and carefully nuanced approach to the conservation of heritage assets.

225 In general terms, Policy KBEF6 seeks to protect heritage assets. However, as set out, the first part of the Policy misinterprets national policy to the extent that it results in an approach that is in direct conflict with the Framework and thus does not have regard to national policy. National policy calls for the balanced judgement of relevant matters, rather than, as set out by Policy KBEF6, simply permitting development where the scale of harm or loss is balanced against the significance of the asset.

226 Notwithstanding this, the Neighbourhood Plan cannot in any case determine whether or not development "*will be permitted.*"

227 For clarity, Policy KBEF6 cannot apply to non-designated heritage assets that do not exist.

228 I recommend:

- **Policy KBEF6, delete first para ("Development...asset") and change start of second para to "*The following non-designated heritage assets will be conserved in a manner appropriate to their significance: War Memorial...Station Approach; The Cottage, Three Houses Lane; Knebworth Village Hall; 1, 3 & 5 Station Road; 23 Station Road; and 143 London Road.*"**
- **Policy KBEF6, delete last sentence ("This policy...Plan.")**

Traffic, Transport and Parking

Policy KBT1: Sustainable Modes of Travel

229 Chapter 9 of the Framework, "*Promoting sustainable transport,*" promotes sustainable patterns of movement and Paragraph 100 of the Framework states that:

"Planning policies and decisions should protect and enhance public rights of way and access..."

230 As set out, the first part of Policy KBT1 places vague requirements on development regardless of deliverability or whether such requirements meet planning obligation tests. The second part of the Policy comprises a general statement regarding reducing car dependence and presents further vague requirements without reference to, or evidence of, deliverability or the relevant national policy tests.

231 Consequently, the Policy is worded in a way that it does not meet the basic conditions.

232 The supporting text includes subjective assumptions and vague references which detract from the clarity and precision of the Neighbourhood Plan.

233 Taking this and the above into account, I recommend:

- **Policy KBT1, delete text and replace with "*The provision of sustainable modes of transport, electric vehicle charging points and the protection and enhancement of public rights of way will be supported.*"**
- **Para 10.2, first para, delete "and North Herts...52)" and delete second para ("If...increase.") and delete second sentence of third para ("It is probable...40).")**
- **Para 10.2, fourth para, delete last sentence ("This...51)")**

Policy KBT2: Traffic Impact

- 234 Policy KBT2 is not supported by any substantive information in respect of what a significant addition to traffic congestion or motor vehicle flows would comprise. Consequently, the first part of the Policy appears imprecise and does not provide a decision maker with a clear indication of how to react to a development proposal.
- 235 There is no substantive evidence to demonstrate that the Policy requirements in the first paragraph are deliverable and further, requirements for “good” pedestrian, cycle and bus connections into Knebworth and the wider area are ambiguous.
- 236 The second paragraph of the Policy refers to matters under consideration as part of the emerging Local Plan and appears vague due to the absence of substantive supporting evidence in justification of the approach in respect of sites not yet allocated.
- 237 The third part of the Policy is reliant on a vague reference to “*the highways in the Neighbourhood Area.*” In the absence of any detailed justification, it is not clear why all major residential development proposals must assess traffic impacts on the Neighbourhood Area’s highways during construction and post-completion. Such a requirement is onerous and there is nothing to demonstrate that it is deliverable or that it has regard to Paragraph 57 of the Framework.
- 238 The last two sentences of the Policy are not supported by detailed evidence in respect of deliverability and appear premature given that the sites referred to are not allocated in an adopted Local Plan.
- 239 The Policy does not meet the basic conditions and I recommend:
- **Delete Policy KBT2 and supporting text**

Policy KBT3: On Street Parking

- 240 Policy KBT3 sets out vague requirements for all development to minimise on street parking on residential roads and to increase off-street parking in the village centre or provide off-street railway parking.
- 241 There is no substantive information to demonstrate that these requirements are deliverable, or that they have regard to Paragraph 57 of the Framework.
- 242 The rest of the Policy is reliant on other policies produced by another party, not within the scope of the Neighbourhood Plan. The Neighbourhood Plan should avoid unnecessary duplication of policies, having regard to Paragraph 16 of the Framework.
- 243 Policy KBT3 does not meet the basic conditions. I recommend:
- **Delete Policy KBT3 and supporting text**

Policy KBT4: 'High Street' (London Road) Traffic Issues

244 The Policy is reliant upon developer contributions being sought but does not provide any details in respect of the basis upon which such contributions will be sought. Policy KBT4 is unclear, imprecise and does not have regard to Paragraph 57 of the Framework.

245 I recommend:

- **Delete Policy KBT4 and supporting text**

Policy KBT5: Bus Routes

246 Policy KBT5 requires all developments to contribute to the provision of a bus route. The Qualifying Body has since stated that the Policy applies to site allocations KB1 and KB2.

247 Notwithstanding that the provision of a bus route is not the same thing as the provision of a bus service, similarly to other Policies, no clear mechanism for contributions is evidenced and the Policy does not meet the basic conditions.

248 I recommend:

- **Delete Policy KBT5 and supporting text**

Policy KBI1: Spending Priorities

249 Policy KBI1 sets out a statement of intent and is not a land use planning policy that meets the basic conditions. Consequently, I recommend:

- **Delete heading of Chapter 11 and replace with “11 - Implementation”**
- **Delete heading “11.2 Policy KBI1 Spending Priorities”**
- **Remove green box and delete “KBI1 Spending Priorities”**
- **Delete wording of text previously in green box and replace with “*The Parish Council is keen to see that funding derived from development in Knebworth benefits the residents of Knebworth. To this end, a list of projects identified in an Action Plan (Appendix E) will be reviewed twice a year by the Parish Council.*”**
- **Page 90, delete last para and replace with “*The Parish Council will seek to encourage developers to take the Action Plan into account when submitting planning applications for development in Knebworth Parish and will seek to work with the County Council and District Council to achieve this.*”**

8. The Neighbourhood Plan: Other Matters

250 The recommendations made in this Report will have a subsequent impact on Contents, including Policy, Figure, paragraph and page numbering.

251 I recommend:

- **Update the Contents, Policy, Figure, paragraph and page numbering to take into account the recommendations contained in this Report**

9. Referendum

252 I recommend to North Hertfordshire District Council that, subject to the recommended modifications, **the Knebworth Neighbourhood Plan should proceed to a Referendum.**

Referendum Area

- 253 I am required to consider whether the Referendum Area should be extended beyond the Knebworth Neighbourhood Area.
- 254 I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.
- 255 Consequently, I recommend that the Plan should proceed to a Referendum based on the Knebworth Neighbourhood Area approved on the 14th June 2016.

Nigel McGurk, February 2022
Erimax – Land, Planning and Communities

