

Southwell Neighbourhood Plan Review

Regulation 16 Consultation
February 2025

Prepared by Fisher German on
Behalf of Richborough

01 Introduction

- 1.1 These representations are prepared on behalf of Richborough in respect of their land interests at Allenby Road, Southwell, as illustrated on Figure 1 below ("the Site"). The representations are accompanied by Counsel's Opinion.
- 1.2 The Site was promoted and then included as a preferred residential site in Newark and Sherwood's Allocations & Development Management Options Report (2011). It was not included in the subsequent adopted Plan in 2013. Representations have been submitted to the emerging Amended Allocations & Development Management DPD. More information in relation to the Site, and the opportunities associated with it, are included at Section 3.



Figure 1 - Illustrative Masterplan

Policy & Legislative Framework

- 1.3 The Submission Draft of the Neighbourhood Plan Review has been submitted under Regulation 16 as a "modification proposal", but due to the significance of the changes proposed, it falls to be assessed as a new draft plan under Schedule 4B of the Town and Country Planning Act 1990.

- 1.4 Richborough's position is that the draft plan does not meet the basic conditions under paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990. It should therefore be recommended not to proceed to referendum and be withdrawn under paragraph 10(2)(c) of Schedule 4B.
- 1.5 The relevant basic conditions are:
- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).*
- ...
- d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development..*
- e. the making of the order (or 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)..*
- f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.*
- g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).*
- 1.6 Paragraph 239 of the NPPF (2024) confirms that the policies within that Framework will apply for the purposes of preparing Neighbourhood Plans from 12 March 2025, unless a Neighbourhood Plan proposal has been submitted to the Local Authority under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) ("the Neighbourhood Planning Regulations") on or before the 12 March 2025. All primary references to the NPPF are therefore to the December 2023 NPPF and will be denoted NPPF (2023), paragraph x.
- 1.7 There are, however, two important limitations to NPPF (2024) paragraph 239, First, the NPPF (2024) remains a material consideration, alongside the current Government's Written Ministerial Statements (WMSs are "national policies ...issued by the Secretary of State" for the purposes of basic condition (a)). It is not appropriate to disregard the substantial changes that have occurred in respect of the Secretary of State's objectives for housing provision.
- 1.8 Second, certain key NPPF (2023) provisions governing neighbourhood plans have been retained in the NPPF (2024) version, notably in respect of NPPF (2023) and (2024) 14 and NPPF (2023) 66 and 67 (now NPPF (2024) 69 and 70). To this extent, the scrutiny must be applied to what the Town Council, as

qualifying body, have actually done – and the implications of this for future applications, assessed under NPPF (2024).

- 1.9 The NPPF (2023) confirm at Paragraph 29 that *“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies”*.
- 1.10 NPPF (2023) paragraph 30 confirms that *“Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently”*.
- 1.11 NPPF (2023), paragraph 31 affirms that *“the preparation and review of all policies should be underpinned by **relevant and up-to-date evidence**. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals”* [our emphasis].
- 1.12 NPPF (2023) paragraph 67 states that *“Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment. Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations. Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a **significant change in circumstances that affects the requirement**”* [our emphasis].
- 1.13 NPPF (2023), paragraph 68 continues *“Where it is not possible to provide a requirement figure for a neighbourhood area, the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority”*.

- 1.14 The Planning Practice Guidance (PPG) (Paragraph: 40 Reference ID: 41-040-20160211) states that whilst Neighbourhood Plans are not obliged to contain policies addressing all types of development, *"where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making".* [our emphasis]
- 1.15 PPG (Paragraph: 42 Reference ID: 41-042-20170728) confirms that Neighbourhood Plan's can allocate housing, however the *"qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria"*.
- 1.16 The PPG continues at Paragraph 044 (Reference ID: 41-044-20190509) that Neighbourhood Plans can *"allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy". Moreover, that Neighbourhood Plan's should not "re-allocate sites that are already allocated through these strategic plans"* [our emphasis].
- 1.17 It continues stating that, *"A neighbourhood plan can also propose allocating alternative sites to those in a local plan (or spatial development strategy), where alternative proposals for inclusion in the neighbourhood plan are not strategic, but a qualifying body should discuss with the local planning authority why it considers the allocations set out in the strategic policies are no longer appropriate". In this context the PPG continues "the resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in strategic policies for the area, plan positively to support local development and should not promote less development than set out in the strategic policies"*.
- 1.18 The Planning Practice Guidance (PPG) (Paragraph: 065 Reference ID: 61-065-20190723) confirms that when updating Plans consideration can be given to *"whether issues have arisen that may impact on the deliverability of key site allocations"*.
- 1.19 Paragraph 96 (Reference ID: 41-096-20190509) states that by *"allocating sites and producing housing policies demonstrates that the neighbourhood plan is planning positively for new homes, and provides greater certainty for developers, infrastructure providers and the community. In turn this also contributes to the local*

authorities' housing land supply, ensuring that the right homes are delivered in the right places".

- 1.20 Paragraph: 097 (Reference ID: 41-097-20190509) states that *"Policies and allocations within other development plan documents, for example strategic site allocations or windfall development set out in a local plan or spatial development strategy, will not meet criterion 14b of the National Planning Policy Framework"*.
- 1.21 NPPF (2023) footnote 17 confirms that *"Neighbourhood Plans must be in general conformity with the strategic policies contained in any development plan that covers their area"*.
- 1.22 The Development Plan within Newark and Sherwood consists of the following;
- Amended Core Strategy DPD (March 2019)
 - Allocations & Development Management DPD (July 2013)
- 1.23 The Amended Core Strategy sets the spatial strategy and hierarchy for the District. Much like the previous development plan document, this document looks to direct significant levels of growth (60%) to the Sub-Regional Centre of Newark-upon-Trent and its wider urban area including Balderton and Fernwood.¹ Of the remaining growth, 30% is directed towards the Service Centres, while a remaining 10% is directed towards the Principal Villages. Of the growth directed towards the Service Centres, this is split between the 5 settlements² within that tier.
- 1.24 The Amended Core Strategy was adopted in March 2019, and has not been reviewed, its housing policies are considered out of date and due regard must instead be given to Local Housing Need. This arises by virtue of the current NPPF (2024), paragraph 78 and footnote 39 (whose 2023 counterparts are NPPF (2023) paragraphs 77 and footnote 42).
- 1.25 The Council's Housing Land Supply Position Paper of January 2025 confirms that applying Local Housing Need, rather than the Core Strategy housing requirement, results in a shortfall of housing land supply, with the Council being only able to demonstrate 3.43 years.

¹ Amended Core Strategy Spatial Policy 2

² Southwell, Ollerton & Boughton, Rainworth, Clipstone and Edwinstowe.

- 1.26 The District Council are also at an advanced stage in the preparation of an Amended Allocations & Development Management DPD, with that Plan being at Examination and hearing sessions having been undertaken in November 2024.

02 Representations

Housing Need/Requirement

- 2.1 The Submission Version of the Plan does not identify a housing requirement for the purposes of NPPF (2023) paragraph 14 or current NPPF (2024) paragraph 14. This is an important matter which goes to the heart of the plan's compliance with basic conditions (a) and (d) and the Plan's future status in decision-taking.
- 2.2 The Submission Version paragraph 2.9 refers to a need to provide 264 dwellings which derives from the Newark and Sherwood Amended Core Strategy: *"the Amended Core Strategy directs 3% of Newark and Sherwood District's housing growth to Southwell. This equates to a need to provide 264 dwellings between 2013 and 2033"*. Due to commitments, completions and retained allocations, the Plan concludes that there is no strategic requirement to allocate further land in Southwell at this time. That is not a housing requirement for the purposes of NPPF (2023) paragraphs 66 and 67 (nor for the purposes of NPPF (2024), paragraphs 69-70).
- 2.3 There is no policy setting out a housing requirement, or even any statement in the supporting text or evidence base as to what the Group considers the housing requirement to be. The basic conditions statement does not address the issue, nor does any other part of the evidence base.
- 2.4 There are however numerous difficulties with this approach, which have significant implications for the plan – to such an extent that it does not meet the basic conditions, and cannot be modified in a way that will render it compliant with them for the purposes of paragraph 8(2) of Schedule 4B.
- 2.5 First, the Amended Core Strategy requirement is seriously out of date (as confirmed by the transitional arrangements of the 2024 NPPF Paragraph 232). It bears no relation to current national policy, and critically has not been the subject of the necessary 5-year review, which is a statutory requirement under The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 (which gave effect to the Neighbourhood Planning Act 2017).
- 2.6 Second, the Town Council, as a qualifying body, have not undertaken the requisite exercise under NPPF (2023), Paragraphs 67-68 of the NPPF to identify whether it is appropriate under current national policy

(basic condition (a)) and with regard to contributing to sustainable development (basic condition (d) to utilise the housing requirement as provided in adopted strategic policies, especially given that there has been a very significant change in national policy with effect from 12 December 2024. This is a mandatory consideration under NPPF (2023) paragraph 67, which requires re-testing at examination. The neighbourhood plan text should have stated expressly that no NPPF 67 exercise has been undertaken, acknowledging the direct implications for NPPF (2024) paragraph 14. PPG (040 Reference ID: 41-040-20160211) makes clear that “where a qualifying body is attempting to identify and meet a housing need, these policies **should take account of latest and up-to-date evidence of housing need**” [our emphasis]. The Neighbourhood Plan has completely disregarded this highly material matter, which is a fundamental flaw.

- 2.7 The Council have conceded that the housing requirement applicable to Newark and Sherwood is the updated Local Housing Need as derived from the amended Standard Methodology, thus 707 dwellings per annum (742 with applicable 5% buffer), not the 454 dwellings per annum referred to in the now out of date Amended Core Strategy. The Council are unable to demonstrate a five-year housing land supply, as already acknowledged by the LPA.
- 2.8 The Group have not requested that the Council provide them with an updated housing requirement in the above circumstances, nor have the Group attempted to generate an updated requirement using the methodology suggested in the PPG. They have therefore not undertaken the exercise expressly required by NPPF (2023) paragraph 68 (and now NPPF (2024) paragraph 70).
- 2.9 The PPG confirms at Paragraph 040 that a Local Planning Authority is required to share relevant evidence on housing need. However, a qualifying body should also take account of major changes to national policy such as those which were announced in the second half of 2024.
- 2.10 Government published the LHN for every authority on 12 December 2024 (before publication of the Reg 16 document). This followed publication of draft figures, which closely matched the final figures, on 30 July 2024. The consultation was plainly very well-publicised and reflected the inevitable direction of travel in respect of housing delivery, consistent with Government’s firm commitment to boost housing delivery from the very start of the current Parliament.
- 2.11 The LHN is therefore exactly what the PPG intends, when it states that if Neighbourhood Plans intend to contain policies relevant to housing supply, these policies must take account of the “*latest and up-to-date*

evidence of housing need".

- 2.12 The PPG directs Neighbourhood Plans to utilise the *"How to undertake a Housing Need Assessment Toolkit"* wherein a Neighbourhood Plan wishes to provide a housing requirement where there is no credible requirement in Policy and where the LPA has not provided a figure. This involves a staged approach. The document is somewhat dated, and does not reflect the scale of changes wrought by the 2024 changes. However, it contains relevant information for consideration of the gaps in the Town Council's exercise to date.
- 2.13 Stage 1 establishes the utilisation of population share to establish a starting point. Southwell's population in the 2021 Census was 7,409, and Newark and Sherwood's population was 122,900, thus Southwell forms 6% of the Council area population (i.e. over twice the 3% share used in the Core Strategy). Against updated Local Housing Need, this would equate to 42 dwellings per annum, or 44 with the requisite 5% buffer.
- 2.14 The Toolkit states that authorities may have regard to existing spatial distributions of development. However, such spatial distributions can plainly only have relevance if they are up-to-date. The Newark and Sherwood spatial distribution originates from the 2011 Core Strategy. The spatial strategy needs to be fully re-assessed as an integral part of the forthcoming new Local Plan for which the Council's LDS anticipates adoption in 2028.
- 2.15 There is no draft evidence base for Local Plan and nothing to suggest that this existing distribution of development will be retained. Therefore, whilst the Amended Core Strategy directs 3% of growth to Southwell (264 dwellings), this is clearly disproportionate when compared to the settlement's population, spatial standing and sustainability.
- 2.16 When apportioned against the LHN 3% growth, this inappropriate lower figure would equate to 21-22dpa (with and without 5% buffer). We have set out significant concerns in relation to the retained site allocations below, such that we do not consider that their figures can be counted as residual capacity. However, in any event, these (non-deliverable) sites only allow for a further 123 dwellings (45 dwellings-SS4, 60-SS5 and 18-SS7).
- 2.17 Windfall rates for the first 9 years of the Plan period were 15-20 dwellings, rolling this forward would require an additional 15-20 dwellings given this was data from 2022 so around halfway through the Plan

period. Assuming a further 20 windfalls, in addition to the 123 outlined above, would provide a supply of 143 dwellings.

- 2.18 Local Housing Need should roll forwards, not backwards and also should be considered separately from historic delivery. The below table provides an assessment as to the requirement for the Plan period 2025-33 if derived from Local Housing Need against the two distribution options (see table on next page):

	Per Annum	Plan Period (2025-33)
Population Share (6% of Updated LHN)	42-44dpa	336-352 dwellings
Amended Core Strategy Distribution LHN (3% of Updated LHN)	21-22dpa	168-176 dwellings

- 2.19 Utilising the supply assumptions discussed above (potential supply of up to 143 dwellings), there would not be sufficient supply to meet either requirement. Again, we emphasise, this assumes delivery of all the sites referenced in the Neighbourhood Plan. There are very significant deliverability issues discussed below. The Neighbourhood Plan is clearly deficient in terms of housing supply.
- 2.20 This Examination must therefore conclude that the Neighbourhood Plan does not identify a housing requirement, due to the lack of a policy or explicit confirmation of a requirement adopted by the Draft NDP.
- 2.21 Given the centrality of this issue, it would be appropriate to recommend that the neighbourhood plan proposal is refused under paragraph 10(2)(c) and the plan is withdrawn, to allow for this process to be re-commenced on a proper basis.
- 2.22 If the Town Council were to attempt to argue (belatedly) that the 264 dwelling figure is a 'requirement figure' (for the purposes of NPPF (2023) and (2024) Paragraph 14), this would still not address the fact that under NPPF Paragraph 67 there has been a significant change in circumstance since the Amended Core Strategy was adopted over 5-years ago (as discussed above). This is the effect of PPG 41-040. It is not possible for a neighbourhood plan qualifying body to ignore major developments at the national policy level.
- 2.23 National planning policy does not permit the preservation of lower, out of date housing requirements through Neighbourhood Plans for a period which will extend 6 years beyond the Plan being out of date.

Provision of Housing

- 2.24 This Neighbourhood Plan Examination must also examine the Site Specific Policies contained at Section 11 of the Draft NDP (SS4, SS5 and SS7 specifically).

- 2.25 These are not allocations in their own right for the purposes of NPPF (2024) paragraph 14(a), but instead simply seek to control the delivery of allocations which have already been adopted in the extant Development Plan.
- 2.26 The Plan is clear at paragraph 11.1 that “the following policies [SS4, SS5 and SS7] deal in turn with specific sites as **allocated within the NSDC A&DM DPD**. The A&DM DPD site specific policies are shown, **and they are supplemented by additional Neighbourhood Plan requirements**, reflecting detailed local circumstances” [our emphasis].
- 2.27 The Neighbourhood Plan is notable for the particularly narrow nature of the policies. It shows the additions made by the NDP in italics, thus making minor differentiation between the policy as per the Allocations and Development Management DPD and the policy deriving from the Neighbourhood Plan.
- 2.28 The Neighbourhood Plan Examiner noted this in March 2016 in her Report (Appendix 1) at paragraphs 177 and 178:
- “177. The Site Specific Policies are policies for specific sites allocated in the A&DM DPD. The A&DM DPD was adopted in 2013 and as such was required to follow the approach of the presumption in favour of sustainable development outlined in the NPPF of the previous year. Whilst the legal requirements for the examination of a local plan differ from those for a neighbourhood plan examination, the site specific policies in the A&DM DPD have already been examined in the context of the presumption in favour of sustainable development.
178. The site specific policies in the Neighbourhood Plan are those in the A&DM DPD supplemented by additional policy clearly identified in italics. I have not come across this approach before in my examination of neighbourhood plans. I understand the intention of the additions is to reflect detailed local circumstances. I must make it abundantly clear that it is only necessary in these circumstances for me to be examining the policy wording in italics” [emphasis added].
- 2.29 As such, it is clear that the role of these policies is not to allocate these sites at all. There is no new boundary, new quantum or new type of development – all of which are mandatory requirements for the purposes of 41-098 (third paragraph). Instead, the Neighbourhood Plan is simply trying to make minor changes to existing allocations which have been made through the extant Development Plan. The Examination must recognise this difference, recording that these are not allocations for the purpose of

NPPF (2023) and (2024) paragraph 14.

- 2.30 If a Neighbourhood Plan wishes to make full allocations, there is a clear process for identifying allocations which must be followed. Simply 'mirroring' a development plan document's allocations is not sufficient.
- 2.31 The PPG is unequivocal (Paragraph: 044 Reference ID: 41-044-20190509) that *"Neighbourhood plans should not re-allocate sites that are already allocated through these strategic plans"*. That makes clear that all qualifying allocations must be new allocations, i.e. with new boundaries and newly identified sources of housing.
- 2.32 NPPF Paragraph 16f affirms that plans should *"serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant)"*.
- 2.33 The PPG states that whilst Neighbourhood Plans can allocate sites, this should be done utilising *"an appraisal of options and an assessment of individual sites against clearly identified criteria"*. No such assessment has been undertaken by the Neighbourhood Plan and as such the Neighbourhood Plan is not in an evidential position to allocate land for development. There has been no exercise of considering sites, nor any evidence to underpin an allocation as required by NPPF Paragraph 31. A Plan simply cannot allocate land without this.
- 2.34 Any conclusion that these are allocations for the purposes of NPPF (2024) paragraph 14, would be in a direct conflict with the NPPF and PPG and be a failure correctly to apply Basic Condition (a).
- 2.35 The NDP Group cannot retroactively gather supporting evidence for a predetermined policy text. Therefore, if the plan was to proceed, the only option available to the examination would be to delete the policies entirely, given there is no underpinning evidence for them (for example in the form of a site assessment exercise). As identified above, this option would not be appropriate as the plan is so fundamentally flawed that withdrawal is now appropriate.
- 2.36 A site assessment exercise must examine the deliverability of sites proposed to be allocated. The Planning Practice Guidance (PPG) (Paragraph: 065 Reference ID: 61-065-20190723) confirms that when updating Plans consideration can be given to *"whether issues have arisen that may impact on the deliverability of key site allocations"*.

- 2.37 Sites SS5 and SS7 are not deliverable. These sites have been allocated for development since 2013, delivery ahead of 2033 is not likely.
- 2.38 Site SS5 (Lower Kirklington Road) has a detailed planning history – see table overleaf, including a number of recent planning applications refused, with the first two applications also having been dismissed at a joint appeal. The site appears to have changed control since the first refusals, with a new application submitted by Redrow Homes in June 2022 (22/01106/FULM), subsequently withdrawn in August 2022. A resubmission (23/00312/FULM) was then submitted and subsequently refused by N&SDC in May 2023. Given the site has now had 4 applications, 3 refused and 1 withdrawn and an appeal dismissed on two, there is compelling evidence now that the site is undeliverable. We also understand the most recent housebuilder associated with the scheme has now ceased promotion of the Site.
- 2.39 Simply put, the Site does not offer a suitable location for development and it there is no realistic prospect that housing will be delivered on the site within 5 years, or within the whole lifetime of the Neighbourhood Plan.

Reference	Description of Development	Outcome
18/01363/FULM	Proposed residential development for 105 dwellings (CAPLA Developments Ltd)	Refused. 4 reasons for refusal including access (incongruous form of development that would be harmful to the rural character and visual amenities of the area of Southwell), housing mix, location of affordable housing and design and layout.
19/01771/FULM	Proposed Residential Development for 80 Dwellings (Re-submission 18/01363/FULM) (CAPLA Developments Ltd)	Refused. 1 Reason for refusal relating to access.
Reference: APP/B3030/W/20/3244627 &APP/B3030/W/19/3234051	Appeal decision 18/01363/FULM & 19/01771/FULM (CAPLA Developments Ltd)	Joint appeal, both dismissed on design (including relating to access works) and housing mix grounds.
22/01106/FULM	Erection of 64 residential dwellings with associated access and infrastructure including the demolition of the High Gables, withdrawn (Redrow Homes).	Application withdrawn by applicant due to number of issues raised by Statutory Consultees.
23/00312/FULM	Demolition of a property known as 'High Gables' and the erection of 56 residential dwellings with associated access, landscaping and infrastructure (resubmission) (Redrow Homes).	Refused. 5 Reasons for refusal including access, drainage, archaeology

2.40 There appears to be an impasse in delivering an acceptable access to the site. The preferred solution of the applicant of the first two planning applications and appeals was a 4-armed mini roundabout, stating that traffic lights were incongruous with the overriding character of Southwell. The Highways Authority would not accept a 4-armed mini roundabout, requiring a traffic light arrangement to enter the site. This essentially meant the applicant had to then apply with a traffic light junction, despite having outlined the inappropriateness of such an approach. Whilst this was the requirement of the Highway Authority, this was not accepted by the Council's Planning Committee who agreed with the applicant's own consultant that the proposed traffic lights would harm the character of the settlement and as such forms one of the

reasons for refusal. Paragraph 108 of the NPPF (2024) confirms that when considering whether a site should be allocated for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Having regard for the severe doubts that must exist regarding the ability to successfully access the site, this allocation must now be regarded as undeliverable and should not be continued as an allocation, unless significant evidence can be provided outlining that an acceptable scheme is available on the site.

- 2.41 Whilst other access solutions were advanced as part of the most recent applications, both secured objections. Prior to the withdrawal of the first Redrow application, there was a further highways objection to the proposals, on the grounds of highways safety. Similarly on the most recent application, which was refused on highway grounds (Reason for Refusal 1 - 23/00312/FULM). Given this represents another objection on highways grounds, there is no clear evidence at the time of writing that a suitable scheme can be advanced. Given the site's planning history, with 4 applications and an appeal in the past 5 years, utilising different access options including the demolition of a dwelling to facilitate access, the obvious conclusion is the site is undeliverable and should be deleted from the Neighbourhood Plan.
- 2.42 The difficulties in delivering this allocation clearly demonstrate the lack of a site assessment exercise in the plan's preparation. The Neighbourhood Plan did not examine suitable alternatives which could have delivered the same quantum of development.
- 2.43 Turning to SS7 (Southwell Depot), as set out in the Council's Amended Allocations & Development Management DPD Regulation 19 Draft, a number of sites that were allocated in Southwell as part of the original Allocations & Development Management DPD (and thus allocated in the Southwell NDP) had to take into account the protected route of the proposed Southwell Bypass. This protected route has now been deleted from the County Council's Road programme following the imposition of a weight limit and a declassification of the former A612 road between the A617 and Lowdham. This change affects So/Ho/7, So/E/2 and So/E3.
- 2.44 The District Council has proposed that due to the bypass being removed, So/Ho/7 (Southwell Depot) should be increased in size from 15 to 18 dwellings, and that the boundary of So/E/2 (Land east of Crew Lane) and So/E/3 (Land south of Crew Lane) should be moved to the existing urban edge.
- 2.45 In considering SS7 (Southwell Depot) it is first necessary to consider the site's planning history. In 2016 an application for 9 dwellings was refused on the basis of reasons related to housing mix, density, design,

impact on trees, impact on privacy of existing dwellings, archaeology and highway safety. Some of these reasons for refusal contradict one another. For example, the density reason for refusal sets out that the site does not make efficient use of land, thus suggesting that further dwellings should be located on the site. However, increasing the number of units would undoubtedly worsen issues relating to impacts on trees, highway safety and privacy. Whilst the officer has set out some forms of development which may be acceptable, there has been no masterplanning provided that we have seen which demonstrates how a comprehensive layout can be delivered on the site having regard for the site's constraints.

- 2.46 Following refusal of the 2016 planning application, the applicant sought to appeal the decision. However, the appeal was dismissed in September 2021 due to inappropriate housing mix, impacts on Southwell conservation area, impacts on trees, impacts on privacy and highway safety.
- 2.47 A second application was submitted in May 2021 for 13 dwellings but was withdrawn due to the Council recommending refusal of the application. Outstanding issues related to parking, design, impacts on conservation area, issues relating to trees, lack of ecology evidence and drainage.
- 2.48 This site has been allocated since 2013 and the fact that so many fundamental issues remain demonstrates that the site is likely undeliverable up to 2033.
- 2.49 In summary, the examination must conclude that that the Plan's reliance on policies SS4, SS5 and SS7 means that it is not capable of meeting the basic conditions (particularly Basic Condition (a) having regard for the PPG and NPPF extracts provided above). These are not allocations of land made by the Neighbourhood Plan. They are instead, and as clearly intended by the Neighbourhood Plan group having regard for Paragraph 11.1, supplementary requirements for the allocations made in adopted policy (which did follow due process and were justified by evidence).
- 2.50 The Town Council as qualifying body have not prepared evidence in support of their allocation. Two of the sites do not appear to be deliverable.
- 2.51 Having regard however for the wider policy framework, not least NPPF Paragraph 14, it is clearly vitally important that the examination considers these matters fully for the avoidance of doubt as to how these policies are to be interpreted thereafter.

Main Open Area/Local Green Space

- 2.52 The removal of the Main Open Area policy from the Regulation 14 draft is noted and supported.

Policy E3 – Green Infrastructure and Biodiversity

- 2.53 We have significant concerns in relation to Part E3.8 of this Policy, which is overly restrictive and not consistent with national policy. It is therefore in breach of basic conditions 8(2)(a) and (d). In particular the requirement that all trees on development sites should be assessed for TPO protection is not appropriate or justified. We agree that the protection of existing mature vegetation is important, but it should be clear that where loss is required to facilitate development, appropriate reprovision, including a greater quantum, should be made. This is the general approach to DM proposals and is accepted. There is however no evidence to suggest why a greater level of protection than this, as proposed by the draft policy, is required and thus it has not been justified in evidence (NPPF (2024) Paragraph 32). In particular the suggestion that TPO assessments should be undertaken is not supported in evidence and is not justified. Arboricultural assessments are common in the industry and we would not have any objection to the requirement for such evidence wherein areas of Important Landscape Vegetation are potentially impacted. We have provided amended wording below which we believe achieves the same aims as the policy, but in a more commensurate and justified way, consistent with the NPPF and best practice. If the policy is not amended on this basis (or similar), it should be deleted.

E3.8 Development proposals which impact on the Important Landscape Vegetation shown on the NP proposals map must include particular consideration in addition to the requirements of Policy E3.8, for its protection, to ensure a rural aspect is maintained on the gateway approaches to Southwell.

All woody species on a development site should be assessed and where appropriate protected. ~~All established trees on a potential development site must also be assessed for their eligibility to meet the criteria for a Tree Preservation Order (TPO) protection. Where designated Important Landscape Vegetation, or other mature vegetation, is to be impacted by development, the applicant should provide an arboricultural assessment demonstrating the impact on them through the proposed development. Where specimens need to be removed to facilitate development, replacement specimens of equal quality or in greater quantity should be provided in appropriate locations on the site to mitigate any necessary losses.~~

The layout on development sites should ensure the Root Protection Areas (RPAs) of any specimen retained, and introduced trees, can be protected from damage when the trees reach maturity and at this stage the trees themselves will not become a nuisance or safety hazard.

Policy HE2 – Employment

- 2.54 We are generally supportive of this Policy, save for the final criterion HE2.6, which does not meet basic conditions 8(2)(a) or (d). In reviewing the introductory text to the Economic Development and Employment section, at paragraph 10.8, it sets out that: *“the policy seeks to encourage the development of new business and employment to ensure that Southwell is a sustainable place to live and work. The town has two industrial estates employing several hundred people in total. In addition, there are two sites allocated within the town for future commercial development, these amounting to some 4.89 hectares.”* It then outlines, that the detailed guidance for those sites is provided in policies So/E/1, So/E/2, and So/E/3 of the NSDC Allocations and Development Management DPD and that the policy seeks to protect and enhance the existing employment sites within the town and support home working.
- 2.55 Part HE2.6 states “with the deletion of the protected line of the Southwell by-pass, should land within allocated sites So/E/2 & 3 be considered unnecessary to meet identified employment needs, both may be considered for other uses, for example, residential, subject to compliance with other development plan policies”.
- 2.56 The test of *“be considered unnecessary to meet identified employment needs”* is not sufficiently clear and could damage the longer term planning of Southwell. Whilst land may not be required for employment purposes at the time of an application, this is not to say it would not have uses in the longer term as originally envisaged. Moreover, we consider this proposed change to be beyond the confines of general conformity with the adopted policy.
- 2.57 The purpose of this policy appears to be in relation to Policy HE2.6 which seeks to allow land within So/E/3, no longer referenced on the Proposals Map, to be considered for other uses, including additional housing, should the land be unnecessary to meet identified employment needs. This is entirely inappropriate. When looking strategically at Southwell, particularly in the long term, the area at Crew Lane is the only area of significant employment in the town. As such, it represents the most appropriate location for future employment growth. We would object to any approach which would serve to sterilise this area for future employment growth. Future housing growth could be delivered, more sensitively, in other parts of the town, whereas we do not consider that future employment provision could. Whilst the landowner may have more immediate aspirations for the delivery of residential development, this is not a material planning consideration in the public interest or the holistic long term planning of Southwell.

- 2.58 The need for land to be retained south of Crew Lane for employment uses is further demonstrated by the presence of areas of flood risk to the north of A&DM DPD So/E/2 which reduces the size of the retained allocation in the emerging Local Plan. If the land to the south is lost to residential development or other sensitive development, this could sterilise employment generating uses to the north of Crew Lane by adding new sensitive receptors immediately adjacent to retained allocated employment land.
- 2.59 Richborough's representations in respect of the previous A&DM DPD review Regulation 19 consultation (Appendix 2) covered this issue. We are supportive of a change from the previous iteration of the Plan, that the land be safeguarded for 'development needs', rather than housing specifically. However, we still have significant concerns that the application of this policy essentially prejudices proper consideration of future development strategies in Southwell and could result in the inability to properly deliver So/E/2.
- 2.60 It is not clear why any land needs to be safeguarded in Southwell. The locality does not contain Green Belt and thus there is no requirement to predetermine future Local Plan due process.
- 2.61 The only use for which the safeguarding would make any sense would be specifically for employment uses, given it is likely the only location in Southwell capable of delivering this use that will likely be required at some point in the future. As mentioned earlier, having regard for the sensitive nature of Southwell, the delivery of employment in other locations would be very challenging. Residential development, however, can more sensitivity be located elsewhere in Southwell, in particular this has been demonstrated through the planning approvals east of Allenby Lane (built by Miller Homes) and land east of Kirklington Road. Our client's land west of Allenby Road would clearly constitute a suitable location for future residential growth. In this regard, unless significant evidence is provided regarding the long-term capacity for Southwell to deliver employment land post the Local Plan period, we would object to any policy which would seek to prevent the natural and obvious use of the site being realised, to prevent Southwell residents from becoming fully reliant on distance commuting.
- 2.62 Again, representations have been submitted to the Amended A&DM DPD Review Regulation 19 consultation arguing for the removal of this designation, on the basis that it has not been justified and not in accordance with national policy and guidance and thus our view is it should be removed. As set out in these representations in relation to the housing allocations, should this proposed policy (HE2.6) persist in the Neighbourhood Plan to effectively mirror the current Reg19 Amended A&DM DPD, but then it is removed either at the additional Reg 19 stage or at Examination, then it would remain allocated in the Neighbourhood Plan.

Refusal of the Neighbourhood Plan Proposal

2.63 For all the above reasons, there are fundamental flaws with the plan. Significant modifications would be required including:

- (1) The deletion of Policies SS5 and SS7, given the absence of any prospect of delivery;
- (2) The modification of Policy HE2;
- (3) Modifications to the plan's supporting text to make clear that it does not meet the requirements of NPPF (2024) paragraph 14

2.64 This is a case in which the flaws are of a scale and type that would merit refusal of the plan under paragraph 10(2)(c).

Examination Procedure

2.65 Having regard for the complexity of the issues set out above, , a hearing would be the best procedure in order for these matters to be fully discussed and thus understood. A hearing is necessary under paragraph 9(2) of the Schedule 4B:

(2) But the examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue at the hearing –

(a) in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case, or

(b) in such other cases as may be prescribed.

2.66 This is a complex case involving at least three questions of legal/policy interpretation (a) the absence of a housing requirement; (b) major defects in the site assessment exercise resulting in deliverability issues and (c) the use of safeguarding policies. Each require legal and related planning submissions to be made in a public format, in which all parties/stakeholders can contribute.