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# **Report on the Stow on the Wold & the Swells Neighbourhood Plan 2023 – 2031**

**An Examination undertaken by an Independent Examiner appointed by Cotswold District Council, with the agreement of Stow on the Wold Town Council and Swell Parish Council, on the September 2023 submission version of the Plan.**

Independent Examiner: Andrew Mead BSc (Hons) MRTPI MIQ

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Intelligent Plans and Examinations (IPE) Ltd, 3 Princes Street, Bath BA1 1HL  
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## Main Findings - Executive Summary

From my examination of the Stow on the Wold & the Swells Neighbourhood Plan (SSNP/the Plan) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Stow on the Wold Town Council;
- The Plan has been prepared for an area properly designated – the Stow on the Wold and Swells Neighbourhood Area as shown on Plan A on page 7 of the Neighbourhood Plan;
- The Plan specifies the period during which it is to take effect: 2023 - 2031; and
- The policies relate to the development and use of land for a designated neighbourhood plan area.

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

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

## 1. Introduction and Background

### Stow on the Wold & the Swells Neighbourhood Plan 2023–2031

- 1.1 Stow on the Wold is located within the Cotswolds National Landscape (formerly Area of Outstanding Natural Beauty (AONB)) about 30km to the north-east of Cirencester and 7km south of Moreton in Marsh, all three towns connected by the A429, the Roman *Fosse Way*. The attractive and compact market town is set in rural, agricultural surroundings, characteristic of the plateau landscape of the upper Cotswolds. The two small villages of Lower Swell and Upper Swell lie to the west on lower ground in the valley of the River Dikler. In 2021, the combined population of the Stow and Swells Council areas was about 2,328.<sup>1</sup>
- 1.2 The first preparation of a neighbourhood plan for Stow on the Wold was paused in 2013, at the suggestion of Cotswold District Council (CDC). However, progress resumed in 2014 and a steering group was formed, evidence was collected, and consultations were held during the subsequent years. The Plan was finally submitted to CDC in October 2023, representing well over 10 years work for those involved.

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<sup>1</sup> 2021 Census.

## The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the SSNP by CDC with the agreement of Stow Town Council (STC) and support of Swell Parish Council.
- 1.4 I am a chartered town planner and former government Planning Inspector and have experience of examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the Plan.

## The Scope of the Examination

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

- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').
- 1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### The Basic Conditions

- 1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contribute to the achievement of sustainable development;
  - be in general conformity with the strategic policies of the development plan for the area;
  - be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>2</sup>; and
  - meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Plan does not breach the requirement of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>3</sup>

## 2. Approach to the Examination

### Planning Policy Context

- 2.1 The current Development Plan for the Stow on the Wold and Swells area, excluding policies relating to minerals and waste development, principally comprises the Cotswold District Local Plan 2011–2031 (CDLP) which was adopted in August 2018.

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<sup>2</sup> The existing body of environmental regulation is retained in UK law.

<sup>3</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF).<sup>4</sup> In addition, the Planning Practice Guidance (PPG) offers advice on how the NPPF should be implemented.
- 2.3 The CDLP is being partially updated. Consultation on Issues and Options took place in 2022 and CDC is presently seeking public comments on the Local Plan Update: Regulation 18 Consultation.<sup>5</sup> Therefore, it is presently at a relatively early stage in its preparation. Whilst there is no requirement for the Neighbourhood Plan to be in general conformity with any strategic policies in the emerging update of the Local Plan, there is an expectation that CDC and the Town and Parish Councils will work together to produce complementary plans.<sup>6</sup> In addition, "Guidance for major development in the Cotswolds Area of Outstanding Natural Beauty" (National Landscape) was published for consultation in 2023 by CDC.<sup>7</sup>

### Submitted Documents

- 2.4 I have considered all policy, guidance and other reference documents I consider relevant to the examination, as well as those submitted which include:
- the draft Stow on the Wold & the Swells Neighbourhood Plan 2023 – 2031, September 2023 submission version;
  - the map on page 7 of the Plan which identifies the area to which the proposed Neighbourhood Plan relates;
  - the Consultation Statement, dated September 2023;
  - the Basic Conditions Statement, dated May 2023;
  - the Strategic Environmental and Habitats Regulations Assessment screening report, dated October 2020;
  - the Strategic Environmental Assessment (SEA) Environmental Report Update, dated June 2023;
  - the Stow on the Wold and the Swells Design Code, dated September 2023;
  - all the representations that have been made in accordance with the Regulation 16 consultation;<sup>8</sup> and
  - the responses dated 8 February 2024 from STC and dated 9 February from CDC to the questions in my letter of 22 January 2024.

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<sup>4</sup> A new version of the NPPF was published on 19 December 2023 (and updated on 20 December 2023). All references in this report read across to the latest December 2023 version.

<sup>5</sup> Regulation 18 Statutory Consultation (1 February 2024 to 7 April 2024): [Local Plan update and supporting information - Cotswold District Council](#)

<sup>6</sup> PPG Reference ID: 41-009-20160211.

<sup>7</sup> View at: <https://siteallocationsmethodology.commonplace.is/en-GB/proposals/document-library>

<sup>8</sup> View all the documents at: <https://www.cotswold.gov.uk/planning-and-building/planning-policy/neighbourhood-planning/stow-on-the-wold-and-the-swells-neighbourhood-plan/>

My consideration has also included the Stow on the Wold and the Swells Neighbourhood Plan Housing Needs Assessment (HNA) March 2022<sup>9</sup>, which was referenced in the Regulation 16 representations.

### Site Visit

- 2.5 I made an unaccompanied site inspection to the SSNP Area on 26 January 2024 to familiarise myself with it and visit relevant locations referenced in the Plan and evidential documents.

### Written Representations with or without Public Hearing

- 2.6 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. No requests for a hearing session were received.

### Modifications

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

## 3. Procedural Compliance and Human Rights

### Qualifying Body and Neighbourhood Plan Area

- 3.1 The SSNP has been prepared and submitted for examination by the Stow on the Wold Town Council (STC), which is a qualifying body. The SSNP extends over all the area, including that covered by Swell Parish Council, and was designated by CDC in April 2015.

### Plan Period

- 3.2 The Plan period is from 2023 to 2031 as clearly stated on the front cover.

### Neighbourhood Development Plan Preparation and Consultation

- 3.3 The comprehensive Consultation Statement (CS) describes the thorough preparation of the Plan with involvement of the public and various stakeholders at many stages of the process. The Community Consultations on pages 2 to 4 of the CS lists the many events at which the

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<sup>9</sup> View at: <https://stowonthewold-tc.gov.uk/wp-content/uploads/2023/02/AECOMS-Stow-on-the-Wold-and-the-Swells-Housing-Needs-Assessment-final-report-March-2022.pdf>



Plan was publicised, covering the period from 2015 until 2023, when the pre-submission consultation took place.

- 3.4 The pre-submission Plan was published for consultation under Regulation 14 of the 2012 Regulations from 6 February until 20 March 2023. The analysis of responses made by statutory consultees and members of the public and the points made are summarised on pages 6 to 11 of the CS. The comments of the Steering Group and any resulting changes to the Plan are described on pages 11 to 26 of the CS.
- 3.5 The Plan was submitted to CDC on 2 October 2023. Consultation in accordance with Regulation 16 was carried out from 14 November 2023 until 5 January 2024. Many representations were received together with comments from CDC about the Plan. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the SSNP, that has had regard to advice in the PPG on plan preparation and engagement and is procedurally compliant in accordance with the legal requirements.

#### Development and Use of Land

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

#### Excluded Development

- 3.7 The Plan does not include provisions and policies for 'excluded development'.<sup>10</sup>

#### Human Rights

- 3.8 I have read the Basic Conditions Statement (BCS) which states that the Councils have been mindful of the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and considers that the Plan complies with the Human Rights Act 1998. I am aware from the CS that considerable emphasis was placed throughout the consultation process to ensure that no sections of the community were isolated or excluded. I have considered this matter independently and I am satisfied that the policies will not have a discriminatory impact on any particular group of individuals.

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<sup>10</sup> See section 61K of the 1990 Act.

## 4. Compliance with the Basic Conditions

### EU Obligations

4.1 The Basic Conditions Statement notes that CDC screened the Plan and confirmed in October 2020 that a Strategic Environmental Assessment (SEA), under EU Directive 2001/42/EC and The Environmental Assessment of Plans and Programmes Regulations (2004), was necessary. The SEA concluded that the Plan would have significant negative and positive effects, mostly associated with the site allocation proposed under Policy SSNP7 and made recommendations about securing high quality design focussed on mitigating the landscape and heritage constraints. The screening report determined that a Habitats Regulations Assessment (HRA), under EC Habitats Directive 92/43/EEC and the Conservation of Habitats and Species Regulations 2010 (*sic*)<sup>11</sup>, was not required because there would be no likely significant effect upon any European designated sites. The statutory consultees did not dissent from these conclusions.<sup>12</sup> I have read the SEA Environmental Report and the SEA and HRA screening report and the other information provided and, having considered the matter independently, I also agree with the conclusions. Therefore, I am satisfied that the SSNP is compatible with EU obligations as retained in UK law.

### Main Issues

- 4.2 Having considered whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the remaining Basic Conditions, particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic Development Plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance of all the Plan's policies.
- 4.3 As part of that assessment, I consider whether the policies are sufficiently clear and unambiguous, having regard to advice in the PPG. A neighbourhood plan policy 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.<sup>13</sup>
- 4.4 Accordingly, having regard to the Stow and the Swells Neighbourhood Plan, the consultation responses, other evidence and the site visit, I consider that the main issues in this examination are whether the SSNP policies (i) have regard to national policy and guidance; (ii) are in general

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<sup>11</sup> 2017 (SI No. 1012).

<sup>12</sup> Details in the Strategic Environmental and Habitats Regulations Assessment (screening report): October 2020.

<sup>13</sup> PPG Reference ID: 41-041-20140306.

conformity with the adopted strategic planning policies; and (iii) would contribute to the achievement of sustainable development? I shall assess these issues by considering the various policies in the Plan beginning with Policy SSNP7 which allocates land for a variety of uses, but mostly residential at the north eastern corner of Stow and is by far the most controversial topic.

## Updated NPPF

4.5 Chapter 3 summarises the relevant national planning policy but is out-of-date because a revised version of the NPPF was published in December 2023. Although changes to the NPPF (as they relate to the SSNP) were minimal, it is nevertheless important that references to the NPPF reflect the contents of the most recent edition. This is particularly notable in paragraph 3.2 of the Plan as follows:

- Planning larger scale housing development (paragraph 73) - now NPPF paragraph 74.
- Ensuring the vitality of town centres (paragraph 86) - now paragraph 90.
- Promoting healthy and safe communities (paragraph 92) - now paragraph 96.
- Local green spaces (paragraph 102) - now paragraph 106.
- Promoting sustainable transport (paragraph 106) - now paragraph 110.
- Supporting high quality communications (paragraph 115) - now paragraph 119.
- Achieving well-designed places (paragraph 127 and paragraph 129) - now paragraphs 132 and 134.
- Conserving and enhancing AONBs (paragraph 176 and paragraph 177) - now paragraphs 182 and 183.
- Conserving and enhancing the historic environment (paragraph 190) - now paragraph 196.

Other references I note include Plan paragraphs 5.9 (NPPF paragraph 80 is now 84); 5.27 (paragraph 177 is now 183); 5.42 (paragraph 102 is now 106); 5.46 (paragraph 203 is now 209); and paragraph 5.49 (paragraphs 152-154 are now 157-159). Policy SSNP6 which refers to NPPF paragraph 177 should now reference NPPF paragraph 183. The reference in Appendix A to paragraph 102 should also be changed to paragraph 106. To that end, I recommend that all references to the NPPF in the SSNP relate to the latest December 2023 version **(PM1)**.

## Vision and Objectives

4.6 The overall vision for the SSNP is described in paragraph 5.1 on page 21 of the Plan. The vision is then used to develop 4 objectives listed in paragraph 5.2 which set the context for the 16 subsequent land use policies.

## Policy SSNP7: Land North-East of Stow

- 4.7 The Plan allocates about 10ha of land for about 170 homes of which about 40% would be affordable, a community hub for a mixture of local community facilities and managed workspaces, together with approximately 150 public car parking spaces. The allocation adjoins the built-up area of Stow to the north-east, is within open countryside and in the Cotswold National Landscape (formerly known as AONB). NPPF paragraph 182 advises that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes. This statement is echoed in Policy EN5 of the CDLP. The NPPF also advises that the scale and extent of development within them (National Landscapes) should be limited.
- 4.8 The Plan (Appendix E page 68) acknowledges that the proposal constitutes major development within the National Landscape and that the land is visible to long views from the east, as confirmed on my visit to the area, especially the lanes in and around the Evenlode valley.
- 4.9 The site assessment note at Appendix E of the Plan considers how the allocation performs against tests derived from paragraph 183 of the NPPF when considering applications for development in designated areas including National Landscapes: the need for the development; the absence of alternatives; and moderating detrimental effects. In passing, I note that CDC has already discounted this site (S61) in their Strategic Land Availability Assessment as being unsuitable for allocation in the Local Plan.
- 4.10 I accept that the allocation in the Neighbourhood Plan could deliver about 70 affordable homes, but the prospective development of 37 affordable houses on land north of Oddington Road, Stow<sup>14</sup> significantly undermines any claim for the need for more as an exceptional circumstance, especially as the 2022 Housing Needs Assessment (HNA) referred to in the SEA estimates a minimum requirement for 37 affordable homes over the plan period to 2031.<sup>15</sup> Similarly, the need for additional market housing is addressed in the housing strategy of the CDLP which, although defining Stow as a Principal Settlement, does not make housing allocations here due to the constraints of the location of the town in the Cotswold National Landscape.
- 4.11 So far as the scope for developing outside the designated area (the National Landscape) is concerned or meeting the need for the development in some other way, the SEA is not exhaustive. Although the focus is understandably on Stow, there is scant reference to other nearby towns assisting in meeting the need for affordable homes. Nor is there significant recognition of the potential offered by developing rural exception sites at or near Stow enabled by Policy H3 of the CDLP.

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<sup>14</sup> Ref: 23/01513/FUL permitted, subject to the completion of a legal obligation.

<sup>15</sup> SEA: page 9, paragraph 5.4.

Nevertheless, even if the alternatives offered minimal scope for the development of affordable housing, I do not accept that the harm to the landscape which would occur under Policy SSNP7 would be justified.

- 4.12 I note the other public benefits which the development would bring which include the relocation of the Town Council offices, the mixture of workspaces, the community hall (which could be used for a variety of indoor recreational and social purposes), and the new car park. However, these benefits have to be balanced against the harm which would occur.
- 4.13 The moderation of any detrimental effects of the new buildings would be very limited due to the hilltop location of Stow and the prominence of the site from the east. Biodiversity enhancements would be possible, as would the increase of recreational opportunities, but these benefits would not outweigh the damage to the scenic beauty of the National Landscape.
- 4.14 Therefore, there is no doubt in my mind that the landscape and scenic beauty of the National Landscape here would not be conserved or enhanced by the construction of the houses and the community hub and that the adverse effects significantly and demonstrably outweigh any benefits which might accrue from the development. I therefore agree with CDC (and many others) that the allocation would not have regard to national guidance<sup>16</sup> and would not generally conform with Policy EN5 of the CDLP. Consequently, Policy SSNP7 does not meet the Basic Conditions and I shall recommend its deletion, along with paragraphs 5.25 – 5.34, Plan D and related Appendices C, E and F. **(PM2)**

#### Policy SSNP1: The Stow on the Wold Development Boundary

- 4.15 Policy SSNP1 defines the development boundary for Stow as shown on the Policies Maps (The Stow on the Wold Inset and the Stow on the Wold Town Centre Inset). Given my recommendation about Policy SSNP7, it follows that the development boundary should exclude the proposed allocation on land to the north east of Stow. Therefore, the development boundary would remain the same as that shown in the Local Plan. In order to avoid duplication of plans showing the development boundary which could result in unnecessary and avoidable ambiguity, I shall recommend the deletion of the policy. **(PM3)**

#### Policy SSNP2: Development in The Swells and the Countryside

- 4.16 Policy SSNP2 identifies Lower Swell as a small village and Upper Swell as a hamlet, the former suited only to small scale residential development, the latter not suited to small scale residential development. Although I agree with the descriptions of these non-principal settlements as a small village and hamlet, drawing on paragraph 6.3.1 of the CDLP, I consider that the phrases "... is suited to ..." and "... is not suited to small scale residential development" are too specific and I recommend that these

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<sup>16</sup> NPPF: paragraphs 180 & 182.

should be reframed. In Clause C of the policy, the phrase "... Rural Area ..." should be altered to "... open countryside ...". Additionally, the final sentence of the policy does not have regard to paragraph 84(e) of the NPPF and should be deleted. With these recommendations, Policy SSNP2 would then have regard to national guidance<sup>17</sup>, would generally conform with Policy DS3 of the CDLP and would meet the Basic Conditions. **(PM4)**

#### Policy SSNP3: Housing Mix

4.17 Policy SSNP3 considers affordable dwellings and housing mix and comprises two clauses: A and B. I consider that Clause A would have regard to national guidance<sup>18</sup>, would generally conform with Policy H2 of the CDLP and would meet the Basic Conditions subject to the clarification of "local connection". I shall recommend this to be modified to accord with the definition recommended by CDC and based on the Gloucestershire – wide Homeseeker Plus, which aims to allocate affordable housing in a fair and transparent way whilst complying with the many legal requirements. I shall also recommend the deletion of Clause B which lacks flexibility and the substitution of a more general phrase which would still enable an appropriate housing mix to be achieved on a case-by-case basis. **(PM5)**

#### Policy SSNP4: Principal Residence

4.18 Policy SSNP4 will only support new open market housing if there is a restriction to ensure its occupancy as a Principal Residence, which are defined as those occupied as the residents' sole or main residence where the residents spend the majority of their time when not working away from home. The evidence quoted in the Plan supporting the policy is that in 2011 17% of the housing stock were second homes. The CDC answer to my question about second home ownership suggests that in 2023, only 71 properties in Stow were second homes which represents 5.54% of the total property count of 1,282, but I recognise that the 2011 Census and the CDC Council Tax Department may have different methodologies leading to varying results.

4.19 Nevertheless, the 2023 CDC Council Tax data shows that Stow is ranked 46 out of 114 parishes for second home ownership within Cotswold District. If the 25 properties in Swell Parish are included, the number increases to 96, ranking it at 36. Therefore, I do not accept that the second homes issue is so exceptional in the Plan area that Policy SSNP4 is justified. Should a Principal Residence policy be deemed necessary to assist in the affordability of housing provision for local residents, it seems to me that it should be assessed on a District wide basis through the Local Plan. Accordingly, I consider that the restrictions created by Policy SSNP4 are not justified and the policy does not have regard to national guidance<sup>19</sup>, does not generally have regard to Policy DS1 of the CDLP and

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<sup>17</sup> NPPF: paragraphs 83 & 84.

<sup>18</sup> NPPF: paragraphs 60, 63 – 65.

<sup>19</sup> NPPF: paragraph 54.

fails to meet the Basic Conditions. Therefore, I shall recommend that the policy should be deleted. **(PM6)**

#### Policy SSNP5: Specialist Accommodation for Older People in Stow

- 4.20 Policy SSNP5 seeks to restrict development for specialist accommodation for older people to those which are small scale, delivered as affordable housing for households with a local connection and deliver no more than 40 units of this type over the plan period. Subject to the recommended deletion of the cap of 40 units, and the inclusion of the definition of “local connection” to that recommended above in Policy SSNP4, the policy would have regard to national guidance<sup>20</sup>, would generally conform with Policy H4 of the CDLP and meet the Basic Conditions. **(PM7)** The reason for the deletion of the cap at 40 is that Stow is defined as a Principal Settlement where there is an expectation that people may be expected to live without any limitations, whether of origin or of age, together with the investment in appropriate infrastructure as provided for in Policy DS1 of the CDLP and explained in Delivering the Strategy of the Local Plan. In addition, the cap of 40 appears to be arbitrary and may just as well have been 30, 50 or more.
- 4.21 Representations referred to including an area of land adjacent to Tewkesbury Road as an allocation for an extension to an existing integrated retirement community. However, my role as an independent examiner is limited to testing whether or not the draft Neighbourhood Plan, as submitted, meets the Basic Conditions. The scope of the Neighbourhood Plan is up to the neighbourhood planning body.<sup>21</sup> Therefore, whatever the merits or demerits of the scheme, I have no reason to consider its allocation.

#### Policy SSNP6: Health and Well Being

- 4.22 Policy SSNP6 requires housing development to demonstrate how it will support the community’s physical and mental health networks. The policy has regard to national guidance<sup>22</sup>, generally conforms with Policies EN1, INF2 and INF3 of the CDLP and meets the Basic Conditions, subject to the updated reference to the paragraph in the NPPF. **(PM8)**

#### Policy SSNP8: Stow Town Centre & Market Square

- 4.23 Policy SSNP8 defines the Town Centre of Stow on the Policies Map and describes policies which will apply within it through seven Clauses, the last of which, Clause G, supports proposals which would lead to a reduction in the overall vehicular parking space in the Market Square. This element was the subject of many objections in the representations and, despite the proviso in Clause G that the number of car parking spaces which could

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<sup>20</sup> NPPF: paragraph 60.

<sup>21</sup> PPG Reference ID: 41-040-20160211.

<sup>22</sup> NPPF: paragraphs 96 & 97.

be lost should not undermine the commercial viability of the Market Square, I agree with CDC that it is unclear on how this should be assessed and without the additional spaces proposed in Policy SSNP7 such an approach could reduce footfall and economic vitality. In any event, on street parking is a matter for Gloucester County Council. Therefore, I propose the deletion of Clause G in order that Policy SSNP8 would have regard to national guidance<sup>23</sup>, would generally conform with Policies EC7 and EC8 of the CDLP and would meet the Basic Conditions. **(PM9)**

#### Policy SSNP9: Playing Field Facilities

4.24 SSNP9 supports proposals to upgrade, extend or replace the pavilion facilities at the Queen Elizabeth Field in Stow and also supports proposals to provide a new pavilion to serve the King George's Playing Fields at Stow, both schemes are subject to detailed criteria considering their location in proposed Local Green Spaces under Policy SSNP10. Policy SSNP9 generally has regard to national guidance<sup>24</sup>, generally conforms with Policy INF2 of the CDLP and meets the Basic Conditions.

#### Policy SSNP10: Local Green Spaces

4.25 Policy SSNP10 designates 9 Local Green Spaces (LGS). LGS designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.<sup>25</sup> LGS should also be capable of enduring beyond the end of the Plan period.<sup>26</sup>

4.26 I visited each LGS on my inspection of the area and I agree that each LGS meets the designation criteria. I consider the phrase in the final sentence of the policy enables the nuances of Green Belt policy imported into LGS policy by the NPPF to be implemented in development management. Therefore, the policy has regard to national guidance<sup>27</sup>, generally conforms with Policy EN3 of the CDLP and meets the Basic Conditions.

#### Policy SSNP11: Stow and the Swells Design Code

4.27 Policy SSNP11 requires that development in the Plan area must accord with the Stow and the Swells Design Code (SSDC). The Plan notes (paragraph 5.43) that the aim of the Code is to supplement the Cotswold Design Code (CDesC) and it has been written to sit alongside the CDesC

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<sup>23</sup> NPPF: paragraphs 90 & 108.

<sup>24</sup> NPPF: paragraph 102.

<sup>25</sup> NPPF: paragraph 106.

<sup>26</sup> NPPF: paragraph 105.

<sup>27</sup> NPPF: paragraphs 105-107; PPG Reference IDs: 37-005-20140306 to 37-022-20140306.



so that they can be read together. Having read the Codes, I consider they are both well drafted and complement each other. CDC commented that the SSDC was occasionally too prescriptive and I suggested that the Councils might wish to confer in order to agree wording where necessary.

- 4.28 However, having considered the response by each Council to this suggestion, my view is that the SSDC has sufficient flexibility in paragraph 2.5 *"As with all design guidance, the principles should be regarded as setting the design brief for a proposal but the applicant may depart from the Code where it can be justified in the circumstances."* One of those circumstances may be where the developer chooses, with justifiable reasons, to follow advice in the CDesC rather than the SSDC if there is a point of difference applicable to the proposed development. Therefore, I consider that Policy SSNP11 has regard to national guidance<sup>28</sup>, generally conforms with Policy EN2 of the CDLP and meets the Basic Conditions.

#### Policy SSNP12: Non-Designated Heritage Assets

- 4.29 Policy SSNP12 considers non-designated heritage assets (NDHAs) which are listed in Appendix B of the Plan. The policy requires that for any proposal which may affect a NDHA, the demonstration of any harm to or loss of the heritage value of the asset would be outweighed by the benefits. The policy has regard to national guidance<sup>29</sup>, generally conforms with Policy EN12 of the CDLP and meets the Basic Conditions.

#### Policy SSNP13: Zero Carbon Buildings

- 4.30 Policy SSNP13 is intended to deliver a radical reduction in carbon emissions from new development. The policy comprises five clauses (A – E). Clause A applies to all development proposals, which I consider to be unreasonable and I will recommend the substitution of "all new buildings". **(PM10)** Subject to that modification, the policy would have regard to national guidance<sup>30</sup>, would generally conform with the CDLP which seeks to take into account the potential impact of climate change in planning for all new development, both in terms of location and design<sup>31</sup>, and would meet the Basic Conditions.
- 4.31 Clause B introduces the concept of a Post Occupancy Evaluation Report which is explained in paragraphs 5.51 and 5.52 of the Plan and in Appendix D and proposes an enforcement regime to which CDC do not dissent, despite possible issues of the reasonableness of the planning conditions which would be required and the resource cost to CDC of implementing the regime. I note that the made Cassington Neighbourhood

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<sup>28</sup> NPPF: Section 12 Achieving well-designed and beautiful places.

<sup>29</sup> NPPF: paragraph 209.

<sup>30</sup> NPPF: paragraphs 162 & 164; PPG Reference ID: 6-009-20150327.

<sup>31</sup> CDLP: paragraph 3.0.14.

Plan (West Oxfordshire District Council)<sup>32</sup> includes a similar policy, but the accompanying text comments that this is a temporary measure as in due course it is expected that the new Local Plan, if not national policy itself, would make such provisions across the District. The same could be said of this Neighbourhood Plan.

#### Policy SSNP14: Walking & Cycling in the Town and Parish

4.32 Policy SSNP14 seeks to improve the network of footpaths and cycleways through and out of Stow on the Wold. The policy has regard to national guidance<sup>33</sup>, generally conforms with Policy INF3 of the CDLP and meets the Basic Conditions.

#### Policy SSNP15: Vehicle Parking

4.33 Policy SSNP15 considers off street parking in Stow and Lower Swell. The policy has regard to national guidance<sup>34</sup>, generally conforms with Policy INF5 of the CDLP and meets the Basic Conditions.

#### Policy SSNP16: Digital Communication Infrastructure

4.34 Policy SSNP16 considers access to digital communication infrastructure in the Cotswold National Landscape. The policy has regard to national guidance<sup>35</sup>, generally conforms with Policy INF9 of the CDLP and meets the Basic Conditions.

#### Implementation

4.35 Section 6 of the Plan deals with implementation and includes a short section on non-planning matters at paragraph 6.4. These ideas for improving or addressing current problems in the area, including additional car parking and an increase in public EV charging points in Lower Swell, cannot be delivered through planning policies, which would not have been considered as part of the examination and which would not have formed part of the statutory Development Plan. Nevertheless, they represent aspirations which would benefit the community and demonstrate an attribute of the neighbourhood planning process.<sup>36</sup>

#### Overview

4.36 Therefore, on the evidence before me, with the recommended modifications, I consider that the policies within the SSNP are in general conformity with the strategic policies of the CDLP, have regard to national

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<sup>32</sup> See Policy CAS8: <https://www.westoxon.gov.uk/media/wkojqf3/made-cassington-neighbourhood-plan-for-web.pdf>

<sup>33</sup> NPPF: paragraph 110.

<sup>34</sup> NPPF: paragraphs 111 & 112.

<sup>35</sup> NPPF: paragraphs 118, 119 & 183.

<sup>36</sup> PPG Reference ID: 41-004-20190509.

guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.

- 4.37 A consequence of the acceptance of the recommended modifications would be that amendments will have to be made to the explanation within the Plan in order to make it logical and suitable for the referendum. The amendments would include the vision. Further amendments might also include incorporating factual updates such as references, correcting minor inaccuracies, any text improvements suggested helpfully by CDC in their Regulation 16 consultation and any paragraph renumbering. None of these alterations would affect the ability of the Plan to meet the Basic Conditions and could be undertaken as minor, non-material changes.<sup>37</sup>

## 5. Conclusions

### Summary

- 5.1 The Stow and the Swells Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the SSNP, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify policies to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The SSNP, as modified, has no policy or proposal which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.
- 5.4 As an observation, in the event that my recommendation to delete SSNP7 is not be accepted, I would highlight that the Parish of Broadwell would be significantly affected by the proposal to develop the land to the North East of Stow. Therefore, in such circumstances, consideration would need to be given to the potential extension of any future referendum area to include the Parish of Broadwell. Similarly, I note that Evenlode Parish has also asked to be included in the referendum and their representation further suggests including Oddington and Donnington parishes as well. However,

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<sup>37</sup> PPG Reference ID: 41-106-20190509.

given I recommend the deletion of SSNP7, it is not for me to make a contingent recommendation in this regard. I cannot pre-empt the outcome of the consideration of my recommendations by CDC, which will be the next stage in the statutory process.

### Concluding Comments

- 5.5 The STC and Swell Parish Council, the Steering Group and other voluntary contributors, such as the SSNP Champions, are to be commended for their efforts in producing a concise but very comprehensive Plan. The Plan is very informative and well-illustrated. I enjoyed examining it and visiting the area. The Consultation Statement and the Basic Conditions Statement were extremely useful. The Plan benefitted from taking care not to duplicate policies<sup>38</sup> found elsewhere in the Development Plan (see paragraph 5.4 of the Plan), the comprehensive and constructive Regulation 16 comments from CDC and the helpful responses from STC and CDC to my questions.
- 5.6 Subject to the recommended modifications, the SSNP will make a positive contribution to the Development Plan for the area and should enable the attractive character and appearance of Stow and the Swells to be maintained whilst enabling sustainable development to proceed.

*Andrew Mead*

Examiner

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<sup>38</sup> NPPF: paragraph 16 f).

## Appendix: Modifications

<b>Proposed modification no. (PM)</b>	<b>Page no./ other reference</b>	<b>Modification</b>
PM1	Throughout the document	Refer to the December 2023 version of the NPPF and update paragraph references where they have changed (see paragraph 4.5 of my report for an indication in this regard).
PM2	Policy SSNP7	Delete Policy SSNP7, paragraphs 5.25 – 5.34, Plan D and Appendices C, E and F.
PM3	Policy SSNP1	Delete Policy SSNP1 and paragraphs 5.6 and 5.7.
PM4	Policy SSNP2	<p>Clause A. Delete: "... that is suited only to ..." and insert: <b>"... which may be suited to no more than ..."</b>.</p> <p>Clause B. Delete: "... not suited to ..." and insert: <b>"... likely to be unsuitable for ..."</b>.</p> <p>Clause C. Delete: "... Rural Area ..." in the first sentence and insert: <b>"... open countryside ..."</b>. Delete the second sentence.</p>
PM5	Policy SSNP3	<p>Clause A. Delete: "... to the Neighbourhood Area and its immediate surroundings ..." and insert: "... as defined by the Homeseeker Plus Common allocations policy document ...".</p> <p>Clause B. Delete the clause and insert: <b>"Within the Stow on the Wold Development Boundary proposals for residential schemes of 6 or more dwellings will be required to demonstrate that the mix of dwelling types and sizes is appropriate to meets the needs of current and future households."</b></p>
PM6	Policy SSNP4	Delete the policy.
PM7	Policy SSNP5	<p>Insert the following additional text in the first bullet point: <b>"... households with a local connection as defined by the Homeseeker Plus Common allocations policy;"</b></p> <p>Delete the second bullet pointed phrase.</p>
PM8	Policy SSNP6	Delete: "... NPPF paragraph 177 ..." and insert: <b>" ... NPPF paragraph 183 and footnote 64, ..."</b> .

PM9	Policy SSNP8	Delete Clause G.
PM10	Policy SSNP13	Clause A. Delete: "Development proposals..." and insert: " <b>All new buildings...</b> ".