

Wilby Neighbourhood Plan 2018 - 2036

**Report by Independent Examiner to Mid Suffolk
District Council**

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Summary and Conclusion

1. The Wilby Neighbourhood Plan has a clear vision supported by objectives.
2. The minimum housing requirement in the emerging Joint Local Plan for the Parish of Wilby is 7 dwellings. Policy WIL5 has sought to provide for sustainable growth by providing for around 16 dwellings during the plan period, of which 11 dwellings are already committed. A site for around 5 dwellings is proposed on land east of Stradbroke Road. Additional dwellings are anticipated to include small windfall sites within the settlement boundary and development in the countryside in accordance with paragraph 79 in the NPPF.
3. I have recommended modification to some of the policies in the Plan. My reasons with regard to all suggested modifications are set out in detail below. None of these significantly or substantially alters the intention or nature of the Plan.
4. **Whilst I have set out my reasoning under individual policies, my overall conclusion is that, subject to my recommendations, the Plan meets the Basic Conditions. It is appropriate to make the Plan. Subject to my recommendations being accepted, I consider that the Wilby Neighbourhood Plan will provide a strong practical framework against which decisions on development can be made. I am pleased to recommend that the Wilby Neighbourhood Plan, as modified by my recommendations, should proceed to Referendum.**

Introduction

5. On 18 December 2017 Mid Suffolk District Council (MSDC) approved that the Wilby Neighbourhood Area be designated in accordance with the Neighbourhood Planning (General) Regulations 2012. The Area covers the whole of the parish of Wilby.
6. The qualifying body is Wilby Parish Council. The Plan has been prepared by the Neighbourhood Plan Volunteer Group on behalf of the Parish Council. The Plan covers the period 2018 to 2036.
7. I was appointed as an independent Examiner for the Wilby Neighbourhood Plan in August 2020. I confirm that I am independent from the Parish Council and MSDC. I have no interest in any of the land affected by the Plan and I have appropriate experience to undertake this examination. As part of my examination, I have visited the Plan area.

Legislative Background

8. As an independent Examiner, I am required to determine, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan 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;
 - the Plan meets the requirements of Section 38B of the 2004 PCPA where the plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area; and
 - that the Plan has been prepared for an area that has been designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.
9. I am obliged to determine whether the Plan complies with the Basic Conditions. The Basic Conditions are:
- 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; and
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations and human rights requirements.
10. *The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018* came into force on 28 December 2018. They state:
- Amendment to the Neighbourhood Planning (General) Regulations 2012.*
- 3.—(1) The Neighbourhood Planning (General) Regulations 2012(5) are amended as follows.*
- (2) In Schedule 2 (Habitats), for paragraph 1 substitute:*
- “Neighbourhood development plans*
- 1. In relation to the examination of neighbourhood development plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act(6)—*
- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(7).”*

11. Since 28 December 2018, a neighbourhood plan is required to be examined against this extra Basic Condition. I will make further reference to this matter below.
12. Subject to the modifications I have recommended in this report, I am content that these requirements have been satisfied.

EU Obligations, Strategic Environmental Assessment (SEA) and Habitat Regulation Assessment (HRA)

13. Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended) (EA Regulations) set out various legal requirements and stages in the production of a Strategic Environmental Assessment (SEA).
14. The *Wilby Parish Neighbourhood Development Plan SEA Screening Opinion* was prepared by LUC in February 2020. Based on this Screening Report and statutory consultee responses, MSDC prepared a *Strategic Environmental Assessment Screening Determination* in July 2020. Initially, Historic England advised that, given the likely significant effects upon the historic environment with regard to the housing allocation and views of the Church of St Mary, a SEA was required.
15. It was agreed that, to respond to the concern raised by Historic England this matter could be dealt with through the preparation of a Site Heritage Impact Assessment Report. Following that report, Historic England issued an update to their original SEA Screening Report response which confirmed that they no longer considered it likely that the Wilby Neighbourhood Plan will result in Significant Effects on the historic environment, and that therefore an SEA could be screened out.
16. Based on the screening determination and consultee response, I consider that it was not necessary for the Plan to require a full SEA Assessment. The SEA screening accords with the provisions of the European Directive 2001/42/EC.
17. As regards HRA, the *Wilby Neighbourhood Plan 2018-2036: Regulation 14 Draft Habitats Regulations Assessment (HRA): Screening Report* was prepared by Place Services in February 2020. It concludes: *Subject to Natural England's review, this HRA Screening Report concludes that the Regulation 14 draft Wilby Neighbourhood Plan is not predicted to have any Likely Significant Effect on any Habitats site, either alone or in combination with other plans and projects. The content of the Wilby Neighbourhood Plan has therefore been **screened out** for any further assessment and Mid Suffolk DC can demonstrate its compliance with the UK Habitats Regulations 2017.*
18. MSDC prepared a *Habitats Regulations Screening Determination* in June 2020. This reached the same conclusion as the Screening Report, subject to the view of Natural England. Natural England subsequently concurred with the conclusion.

19. Based on the screening determination and consultee response, I consider that the Plan did not require a full HRA under Articles 6 or 7 of the Habitats Directive. I am satisfied that the Plan does not breach the requirements of Chapter 8 of Part 6 of *the Conservation of Habitats and Species Regulations 2017(7)*.
20. A Neighbourhood Plan must be compatible with European Union obligations, as incorporated into UK law, in order to be legally compliant. I am satisfied that the Plan is compatible with EU obligations and does not breach the European Convention on Human Rights obligations.

Policy Background

21. The *National Planning Policy Framework (NPPF)* (2019) sets out the Government's planning policies for England and how these are expected to be applied. The *Planning Practice Guidance* (2014) (PPG) provides Government guidance on planning policy.
22. At the heart of the NPPF is the presumption in favour of sustainable development. Paragraph 8 sets out the three overarching objectives which are interdependent and need to be pursued in mutually supportive ways. The three overarching objectives are:
 - a) *an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
 - b) *a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
 - c) *an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*
23. Wilby Parish is within the local authority area of Mid Suffolk District Council (MSDC). The development plan for the Wilby Neighbourhood Plan Area comprises the saved policies in the Mid Suffolk Local Plan (1998); The Mid Suffolk Local Plan First Alteration: Affordable Housing (2006); The Mid Suffolk Core Strategy Development Plan Document (2008); and The Mid Suffolk Core Strategy Focused Review (2012).

24. The strategic policies in the development plan include policies regarding housing provision and the conservation and enhancement of the natural and historic environment.
25. MSDC with Babergh District Council published a Joint Local Plan Preferred Options Consultation Document in July 2019. This covers the period to 2036. This has been followed by consultation on the BMSDC Sustainability Scoping Report (March 2020). During my examination of this Plan, a Joint Local Plan Pre-Submission (Regulation 19) document was published for Consultation. This covers the period to 2037.

The Neighbourhood Plan Preparation

26. I am required under The Localism Act 2011 to check the consultation process that has led to the production of the plan. The requirements are set out in Regulation 14 in The Neighbourhood Planning (General) Regulations 2012.
27. The initial consultation process started in October 2017 when a public meeting was held to gauge support. There were a further three stages of early consultation. These include stakeholder meetings with the School, Church and Village Hall and public drop-in exhibition style events held in November 2018. These were followed by public drop-in exhibitions sessions on emerging policy ideas in March 2019.
28. The Consultation period on the pre-submission draft of the Plan ran from 22 January 2020 to 12 March 2020. The consultation began with a hard copy of the draft plan, a consultation form and details of how to submit representations being posted through the door of every house within the Parish. The pre-submission consultation was publicised via the neighbourhood plan page on the Parish Council's website, an article in the Parish Magazine and the delivery of the draft plan itself. Copies of the draft Plan and response forms were available on the website. In addition, notifications of the consultation and details of how to view the draft plan and submit and return comments were sent to a wide range of consultees.
29. I am satisfied that the pre-submission consultation and publicity has met the requirements of Regulation 14 in The Neighbourhood Planning (General) Regulations 2012. The consultation and publicity went well beyond the requirements and it is clear that the qualifying body went to considerable lengths to ensure that the local community was able to engage in the production of the Plan. I congratulate them on their efforts. In particular, I congratulate them on their ability to make changes to the Plan, following the pre-submission consultation, during the challenging lockdown period.
30. MSDC publicised the submission Plan for comment during the publicity period between 12 August 2020 and 7 October 2020 in line with Regulation 16 in The Neighbourhood Planning (General) Regulations 2012. A total of six responses were received. I am satisfied that all these responses can be assessed without the need for a public hearing.

31. In the responses there are suggested additions and amendments to policies. My remit is to determine whether the Plan meets the Basic Conditions. Where I find that policies do meet the Basic Conditions, it is not necessary for me to consider if further suggested additions or amendments are required. Whilst I have not made reference to all the responses in my report, I have taken them into consideration. I gave the Parish Council the opportunity to comment on the Regulation 16 representations. I have taken their comments into consideration. Their comments have been placed on the MSDC web site.

The Wilby Neighbourhood Plan

32. Background information in Section 2 of the Plan provides an overview of the Plan area, including its history, village facilities, natural environment, population and heritage. In addition, further background is provided in the policy section. As such, this provides a clear background to the Plan.
33. Paragraph 16 in the NPPF requires plans to be prepared positively, in a way that is aspirational but deliverable; and serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area. In addition, paragraph 16 in the NPPF requires plans to contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.
34. PPG states: *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.* (Paragraph: 041 Reference ID: 41-041-20140306).
35. I do refer to clarity and precision with regard to some recommendations to modifications to the Plan. Where I do so, I have in mind the need for clear and unambiguous policies, thus ensuring that the Plan has regard to national policy in this respect.
36. It is not for me to re-write the Plan. Where I have found editing errors, I have identified them as minor editing matters and highlighted these as such. These have no bearing on whether the Plan meets the Basic Conditions.
37. A clear Community Vision for the Parish has been established: *Our vision for future Wilby sees the rural beauty of its natural environment preserved, with change to its amenities and built environment managed pro-actively, creatively and sustainably to the benefit of all those living here, working here, visiting or passing through.* This vision is supported by three objectives of broad statements of intent.

38. Policies in a neighbourhood plan can only be for the development and use of land. Where there are community aspirations (identified as Community Action Projects in this Plan), these have to be clearly differentiated from policies for the development and use of land.
39. For ease of reference, I have used the same policy titles as those in the Plan. I have briefly explained national policy and summarised main strategic policies where relevant to each neighbourhood plan policy. I have tried not to repeat myself. Where I have not specifically referred to other relevant strategic policy, I have considered all strategic policy in my examination of the Plan.

Natural Environment

WIL1 Landscape and Natural Features

40. Paragraph 170 in the NPPF requires the planning system to contribute to and enhance the natural and local environment. This includes protecting and enhancing valued landscapes. Paragraph 175 in the NPPF seeks to protect habitats and biodiversity. One of the principles to protect and enhance biodiversity in Paragraph 175 states: *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*
41. Core Strategy Policy CS5 seeks to ensure that all development maintains and enhances the environment and retains the local distinctiveness of the area.
42. The above policies are relevant to Policies WIL1 - WIL3.
43. Policy WIL1 seeks to protect natural features. New development will be expected to provide a net gain in biodiversity. It recognises the need for mitigation where losses or harm are unavoidable.
44. Policy WIL1 states that where loss or damage is unavoidable, the benefits of the development proposals must be demonstrated to clearly outweigh any impacts. In Paragraph 175 b) in the NPPF, this test is only relevant for development on land within or outside a Site of Special Scientific Interest. I have no evidence before me to indicate why this test should be relevant for all loss or damage to biodiversity features in the Parish. Therefore, I have recommended deletion of this reference.
45. Subject to the above modification, Policy WIL1 has regard to national policy, contributes towards sustainable development, particularly the environmental objective and is in general conformity with strategic policy. Modified Policy WIL1 meets the Basic Conditions.

46. The Natural Features identified in Policy WIL1 should be numbered on the Policies Map to correspond with the numbering in Policy WIL1. **I see this as a minor editing matter.**

47. **Recommendation: to meet the Basic Conditions I recommend modification to the last paragraph in Policy WIL1 to read as follows:**

Where loss or damage is unavoidable, the development shall provide for equivalent or better replacement planting on site together with a method statement for the ongoing care and maintenance of that planting. Where development proposals cause damage to identified natural features, wildlife corridors around the interruption will be constructed.

WIL2 Protection of Important Views

48. Policy WIL2 seeks to protect three Important Public Local Views. I have visited the viewpoints and understand their importance to the local community. I am satisfied that the protection of the views identified by the local community is justified.

49. Policy WIL2 has regard to national policy, contributes towards sustainable development, particularly the environmental objective and is in general conformity with strategic policy. Policy WIL2 meets the Basic Conditions.

50. The Important Public Local Views should be numbered on the Policies Map to correspond with the numbering in Policy WIL2 and the Key to the Policies Map should identify the Important Public Local Views. **I see these as minor editing matters.**

WIL3 Local Green Spaces

51. The NPPF in paragraphs 99 - 101 states: *the designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.*

The Local Green Space 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.

Policies for managing development within a Local Green Space should be consistent with those for Green Belts.

52. The choice of Local Green Spaces (LGS) is supported by background evidence in the pages preceding Policy WIL3 and in Appendix C. I have seen the two proposed LGS during my visit to the Parish. My comments on each site are set out below. They both meet the criteria for designation. I have no evidence to suggest that these LGS are not capable of enduring beyond the end of the plan period.
53. a) Land surrounding Church of St Mary (including graveyard). This area is clearly of historical significance to the local community. It is in close proximity to the community it serves and is not an extensive tract of land.
54. b) Playing field associated with Wilby Church of England Primary School. This area is clearly of recreational value. It is in close proximity to the community it serves and is not an extensive tract of land.
55. Following a very recent Court of Appeal case with regard to the lawfulness of a LGS policy in a neighbourhood plan: (*Lochailort Investments Limited v. Mendip District Council and Norton St Philip Parish Council*, [2020] EWCA Civ 1259), I now consider it necessary to delete the last paragraph in Policy WIL3 and reference to special protection in the first sentence of the policy. This will ensure that there can be absolutely no doubt regarding the lawfulness of the policy. The restrictions on development with regard to LGS designation will continue to apply through the NPPF. This will ensure that policies for managing development within a LGS are consistent with those for Green Belts. This ensures that the policy meets the Basic Conditions.
56. Subject to the above modifications, Policy WIL3 has regard to national policy, contributes towards sustainable development, particularly the environmental objective and is in general conformity with strategic policy. Modified Policy WIL3 meets the Basic Conditions.
57. The LGS should be numbered on the Policies Map to correspond with the numbering in Policy WIL3. **I see this as a minor editing matter.**
58. **Recommendation: to meet the Basic Conditions I recommend modification to Policy WIL3 to read as follows:**
- Local Green Spaces**
- The following areas are designated as Local Green Space (as shown on Map D and the Policies Map).**
- a) Land surrounding Church of St Mary (including graveyard)**
- b) Playing field associated with Wilby Church of England Primary School.**

WIL4 Renewable Energy and Future Sustainability

59. Paragraph 148 in the NPPF states: *the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.*
60. Core Strategy Policy CS3 seeks to reduce contributions to climate change.
61. Policy WIL4 supports a number of renewable energy measures.
62. PPG, (at Paragraph: 001 Reference ID: 56-001-20150327), makes it clear through a link to a Written Ministerial Statement of 25 March 2015 that it is not appropriate to refer to any additional local technical standards or requirements relating to the construction or performance of new dwellings in neighbourhood plans. Therefore, Policy WIL4 can only apply to non - residential development. I suggest that Policy WIL4 is modified accordingly.
63. The accompanying text can explain that it is not appropriate to refer to any additional local technical standards or requirements relating to the construction or performance of new dwellings in neighbourhood plans. **I see this as a minor editing matter.**
64. Subject to the above modification, modified Policy WIL4 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WIL4 meets the Basic Conditions.
65. **Recommendation: to meet the Basic Conditions, I recommend modification to Policy WIL4 by the addition of the following sentence at the beginning of the policy:**
- This policy only applies to non - residential development.**

Housing and the Built Environment

WIL5 Future Housing Provision

66. Paragraph 77 in the NPPF states: *in rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Paragraph 79 seeks to avoid the development of isolated homes in the countryside unless certain circumstances apply such as an essential need for a rural worker or the re-use of a redundant building.*
67. Core Strategy Policy CS1 identifies Wilby as a Secondary Village. These are villages unsuitable for growth but capable of taking appropriate residential infill and development for local needs only. Whilst Core Strategy

Focused Review Policy FC 2 outlines the provision and distribution of housing in the District, this is not up to date.

68. There is no legal requirement to test the Neighbourhood Plan against emerging policy although PPG advises that the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which the neighbourhood plan is tested. The qualifying body and the local planning authority should aim to agree the relationship between policies in the emerging Neighbourhood Plan, the emerging Local Plan and the adopted Development Plan, with appropriate regard to national policy and guidance.
69. The neighbourhood plan was prepared prior to the publication of the Joint Local Plan Pre-Submission (Regulation 19) document. The emerging document was the Joint Local Plan Preferred Options Consultation Document.
70. Policy SP03 in the emerging Joint Local Plan Preferred Options Consultation Document identified Wilby as a Hinterland Village. I note that this appears to have been an error and Wilby should have been identified as a Hamlet Village. This has subsequently been corrected in the table accompanying Policy SP03 in the Pre-Submission Plan. Emerging Policy SP03 allows for development within the settlement boundaries subject to a list of criteria including sympathetic design, a high standard of landscaping and retention of existing hedgerows and treelines where they make an important contribution to the setting.
71. The Joint Local Plan Pre-Submission document is yet to be considered in detail at examination and the emerging housing figures may change as a result of that examination. It is not for me to undertake a detailed assessment of the emerging housing figures in the Joint Local Plan.
72. PPG advises that *a neighbourhood plan 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.* It further advises that *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 (see paragraph 13 and paragraph 29 of the National Planning Policy Framework).* *Nor should it be used to constrain the delivery of a strategic site allocated for development in the local plan or spatial development strategy.* (Extracts from PPG Paragraph: 044 Reference ID: 41-044-20190509).
73. The minimum housing requirement in the emerging Joint Local Plan Preferred Options Consultation Document for Wilby was 12 dwellings. This has subsequently been reduced to 7 dwellings in the Regulation 19 Document. These 7 dwellings are identified as outstanding planning permissions as of 1 April 2018. Appendix D in this neighbourhood plan identifies a further four dwellings which have subsequently been granted planning permission.

74. National policy emphasises that development means growth. Policy WIL5 has sought to provide for sustainable growth by providing for around 16 dwellings during the plan period, of which 11 dwellings are already committed. The number of additional dwellings above those committed is only around five. Only one further dwelling was initially required to meet the emerging Joint Local Plan Preferred Options minimum requirement at that time. Nevertheless, paragraph 7.13 in the neighbourhood plan states that it is *appropriate and realistic to include an allocation for 5 dwellings to meet the dwelling requirement*. I do not consider that the situation has significantly changed with the publication of the Pre-Submission Joint Local Plan. The small number of additional dwellings would not constrain the delivery of a strategic site and would support the strategic development needs.
75. Sometimes it is necessary to ask for a period of re-consultation on a neighbourhood plan if circumstances change during an examination. In this particular instance, in the circumstances of this neighbourhood plan, as outlined above, I do not consider that the situation has significantly changed with the publication of the Pre-Submission Joint Local Plan and thus see no need for re-consultation.
76. A site for around 5 dwellings is proposed on land east of Stradbroke Road. Additional dwellings are anticipated to include small windfall sites within the settlement boundary and development in the countryside in accordance with paragraph 79 in the NPPF.
77. The landowner of the allocated site has expressed support for this allocation and has confirmed that the site can be delivered without delay. I will refer to that site in more detail under Policy WIL6. I am satisfied that this approach in the Plan to providing such a scale of new residential development in the Parish would contribute towards sustainable development.
78. The Village Inset Policy Map includes pink and green lines which are not listed in the key. I sought clarification and now understand that the green line is the existing adopted settlement boundary and the pink line is the emerging settlement boundary in the emerging Joint Local Plan. In seeking clarification, it has been confirmed that the settlement boundary in this neighbourhood plan is the pink line of the emerging Joint Local Plan together with the outer boundary of the housing allocation site. That omission was a drafting error. As such, in the interest of precision, the pink line should be modified accordingly and the key should include the settlement boundary. I see no reason to retain the green line on the map. This just leads to confusion as it is not the settlement boundary for the village for the purposes of the Plan. In the interest of precision, the Village Inset Policy Map should include the names of the main through roads on an OS base.
79. As this plan identifies a new settlement boundary on the Village Inset Policy Map, there should be reference to this in a corresponding policy. I suggest this is incorporated into Policy WIL5. I have suggested wording.
80. Subject to the above modifications, Policy WIL5 has regard to national policy, contributes towards sustainable development and is in general

conformity with strategic policy. Modified Policy WIL5 meets the Basic Conditions.

81. **Recommendation: to meet the Basic Conditions, I recommend:**

1) modification to the first paragraph in Policy WIL5 to read as follows:

The Neighbourhood Plan will accommodate development in Wilby commensurate with its classification in the settlement hierarchy. The Settlement Boundary for Wilby is identified on the Village Inset Policy Map.

2) modification to the Village Inset Policy Map to extend the pink line of the settlement boundary around the housing allocation site. The Key should include the settlement boundary. The green line of the existing adopted settlement boundary should be deleted. The Village Inset Policy Map should include the names of the main through roads on an OS base.

WIL6 Housing Allocation east of Stradbroke Road

82. During my visit to the Parish I was able to view this allocated site. This site has been chosen by the local community having considered a number of possible sites surrounding the village of Wilby.

83. Initially there was concern from Historic England with regard to the setting of the Church of St Mary, which has been overcome following the *Site Heritage Assessment Report* of July 2020. The Report concludes that *the proposed allocation with the safeguards set out in the policy are considered to have avoided or minimised harm to the significance of the setting of this fine parish church, its tower and the churchyard itself*. Thus, the statutory duty to have special regard to preserving the setting of a listed building is satisfied.

84. Concern has been raised on behalf of the owner of this site regarding the additions to Policy WIL6 that have arisen from the *Site Heritage Assessment Report*.

85. As regards the View Safeguarding Zone, it would not preclude all development in the zone, only that which would occlude, obscure or interrupt views of the Church. From my observations, it remains feasible to design a development that would protect the View Safeguarding Zone, whilst not creating a cramped form of development on the site.

86. Concern has been raised on behalf of the owner of this site regarding the use of materials for the junction and footways that ensure a softer and rural appearance. The Highway Authority has not raised objection to this policy. Specific materials are not stipulated in the policy. The requirement for a softer and rural appearance will help achieve Objective 1 with regard to maintaining the rural nature of the Parish. Thus, I see no need to modify this requirement.

87. Concern has been raised on behalf of the owner of this site regarding Policy WIL6 not supporting outline applications for development of this site. This was suggested by the Suffolk Preservation Society and is one of the recommendations in the *Site Heritage Assessment Report* with the clear intention of ensuring that any layout, building heights and landscaping would safeguard the setting of the Church.
88. Planning applications can be submitted in outline form with some or all reserved matters considered at this outline stage. A local planning authority is able to ask for reserved matters to be submitted at an outline application stage if the circumstances of the case require such details.
89. There is no reason why an outline planning application that provides sufficient detail to show that it meets all policy requirements and in particular safeguards the setting of the Church, should not be supported. Therefore, in the interest of precision, I have suggested revised wording to include the requirement for some reserved matters to be submitted with an outline planning application. This is justified by the findings of the *Site Heritage Assessment Report*.
90. I realise that Heritage England withdrew its recommendation for a full SEA based on the findings of the *Site Heritage Assessment Report*. In making this suggested modification with regard to outline applications, the same objective will be achieved with regard to ensuring safeguarding the setting of the Church.
91. Subject to the above modification, Policy WIL6 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WIL6 meets the Basic Conditions.
92. There is no need to mention amending the policy in paragraphs 7.17 and 7.22. There is a typo in paragraph 7.19. **I see these as minor editing matters.**
93. **Recommendation: to meet the Basic Conditions I recommend modification to the penultimate paragraph in Policy WIL6 to read as follows:**
- Whether a planning application is submitted as an outline or full application, it should include full details of the proposed layout, scale and landscaping, to show how the development would safeguard the setting of the Church.**

WIL7 Housing Mix

94. Paragraph 59 in the NPPF states that the needs of groups with specific housing requirements need to be addressed, to support the Government's objective of significantly boosting the supply of homes.
95. Core Strategy Policy CS9 seeks to ensure a mix of housing types, sizes and affordability to cater for different accommodation needs.

96. Policy WIL7 seeks a mix of housing in line with the latest evidence of need. As mentioned under Policy WIL4, it is not appropriate to refer to any additional local technical standards or requirements relating to the construction or performance of new dwellings in neighbourhood plans. Therefore, I have suggested revised wording for the second part of Policy WIL7.
97. Subject to the above modifications, Policy WIL7 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WIL7 meets the Basic Conditions.
98. **Recommendation: to meet the Basic Conditions I recommend modification to Policy WIL7 to read as follows:**

Housing Mix

Support will be given to the provision of a wide range of types of housing that meet local needs and enable the creation of a mixed, balanced and inclusive community.

In line with the latest evidence of need new developments should include:

- **Family housing 2-3 bedrooms**
- **Starter homes/homes for first time buyers**
- **Affordable Housing****
- **Self-build or Custom Built Housing.**

Adaptable homes are encouraged.

***It should be noted that the above housing types may not be suitably accommodated on every site.**

****Paragraph 63 of the NPPF 2019 states that provision of affordable housing should not be sought for residential developments outside designated rural areas that are not major development (10 dwellings).**

WIL8 Well Designed Development

99. Paragraph 124 in the NPPF explains 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. Being clear about design expectations, and how these will be tested, is essential for achieving this.*
100. Paragraph 125 in the NPPF states: *plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood plans can play an important*

role in identifying the special qualities of each area and explaining how this should be reflected in development.

101. Paragraph 127 in the NPPF lists criteria for design policies, including that developments *are 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).*
102. Core Strategy Policy CS5 seeks to ensure that all development maintains and enhances the environment, including the historic environment, and retains the local distinctiveness of the area. Core Strategy Focused Review Policy FC1.1 seeks to ensure that proposals for development conserve and enhance the local character of different parts of the district.
103. Policy WIL8 seeks high quality development reflecting local distinctiveness. As mentioned previously, it is not appropriate to refer to any additional local technical standards or requirements relating to the construction or performance of new dwellings in neighbourhood plans. Therefore, reference to the use of sustainable materials cannot apply to residential property. I have suggested revised wording.
104. In this rural area where there is only likely to be small scale development, I cannot foresee many instances where it will be viable to include new or improved Public Rights of Way routes as part of development. Thus, in the interest of clarity, I suggest that 'where appropriate' is included at the end of the last paragraph in Policy WIL8.
105. Subject to the above modifications, Policy WIL8 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Modified Policy WIL8 meets the Basic Conditions.
106. **Recommendation: to meet the Basic Conditions I recommend modification to Policy WIL8 as follows:**
 - 1) modification to the first paragraph to read as follows:**

All new housing developments should reflect Wilby's local distinctiveness and character and seek to enhance its quality. Emphasis should be placed on the use of high quality materials.
 - 2) modification to the last two paragraphs to read as follows:**

Proposals for innovative and contemporary design which respects the character of the area and promotes the use of high quality materials will be supported.

Development should protect and where possible enhance Public Rights of Way through the inclusion of new or improved routes and connections where appropriate.

WIL9 Non Designated Heritage Assets

107. PPG states:

There are a number of processes through which non-designated heritage assets may be identified, including the local and neighbourhood plan-making processes and conservation area appraisals and reviews. Irrespective of how they are identified, it is important that the decisions to identify them as non-designated heritage assets are based on sound evidence.

Plan-making bodies should make clear and up to date information on non-designated heritage assets accessible to the public to provide greater clarity and certainty for developers and decision-makers. This includes information on the criteria used to select non-designated heritage assets and information about the location of existing assets.

(Extract part of Paragraph: 040 Reference ID: 18a-040-20190723 dated 23 July 2019).

108. Core Strategy Policy CS5 seeks to ensure that all development maintains and enhances the environment, including the historic environment, and retains the local distinctiveness of the area.

109. Policy WIL9 identifies buildings of local heritage interest to be treated as non-designated heritage assets.

110. I note that the supporting evidence was compiled using criteria for selection as advised by Historic England. This was formerly English Heritage as referred to in paragraph 7.57. I suggest this reference is amended to refer to Historic England. **I see this as a minor editing matter.**

111. It is clear from the evidence before me that the buildings identified in Policy WIL9 are historic buildings of significance to the local community. They have been chosen using clear criteria for selection and have been identified on sound evidence.

112. Policy WIL9 has regard to national policy, contributes towards sustainable development and is in general conformity with strategic policy. Policy WIL9 meets the Basic Conditions.

Community

WIL10 Community Facilities

113. Paragraph 92 in the NPPF states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, amongst other matters, plan positively for the provision of community facilities and 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.

114. Core Strategy Policy CS6 seeks to ensure that new development provides or supports the delivery of appropriate and accessible infrastructure to meet the justified needs of new development. Whilst not a policy specifically supporting the retention of existing facilities, the supporting text does refer to seeking to ensure the protection of existing facilities and services.
115. Policy WIL10 seeks to protect and improve existing community facilities. In particular, it supports the creation of a new village hall. Policy WIL10 plans positively and guards against unnecessary loss of community facilities. As such, Policy WIL10 has regard to national policy, contributes towards sustainable development, particularly the social objective and is in general conformity with strategic policy. Policy WIL10 meets the Basic Conditions.

Referendum and the Wilby Neighbourhood Plan Area

116. I am required to make one of the following recommendations:
- the Plan should proceed to Referendum, on the basis that it meets all legal requirements; or
 - the Plan as modified by my recommendations should proceed to Referendum; or
 - the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
117. **I am pleased to recommend that the Wilby Neighbourhood Plan as modified by my recommendations should proceed to Referendum.**
118. I am required to consider whether or not the Referendum Area should extend beyond the Wilby Neighbourhood Plan Area. I see no reason to alter or extend the Neighbourhood Plan Area for the purpose of holding a referendum.

Minor Modifications

119. The Plan is a well-written document, which is easy to read. Where I have found errors, I have identified them above. It is not for me to re-write the Plan. If other minor amendments are required as a result of my proposed modifications, I see these as minor editing matters which can be dealt with as minor modifications to the Plan. In particular, the introduction will need updating. References to the Joint Local Plan will need to refer to the Pre-Submission Regulation 19 Local Plan.

Janet Cheesley

Date 16 November 2020

Appendix 1 Background Documents

The background documents include:

The National Planning Policy Framework (The Framework) (2019)
The Planning and Compulsory Purchase Act 2004
The Localism Act (2011)
The Neighbourhood Planning (General) Regulations (2012)
The Neighbourhood Planning (General) (Amendment) Regulations (2015)
The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations (2016)
The Neighbourhood Planning (General) and Development Management Procedure (Amendment) Regulations (2017)
The Neighbourhood Planning Act (2017)
The Planning Practice Guidance (2014)
The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
The Saved Policies in the Mid Suffolk Local Plan (1998)
The Mid Suffolk Local Plan First Alteration: Affordable Housing (2006)
The Mid Suffolk Core Strategy Development Plan Document (2008)
The Mid Suffolk Core Strategy Focused Review (2012)
Babergh & Mid Suffolk Joint Local Plan: Preferred Options Consultation Document (July 2019)
Babergh & Mid Suffolk Joint Local Plan: Pre-Submission (Regulation 19) Document (November 2020)
Regulation 16 Representations
All Supporting Documentation submitted with the Plan
Examination Correspondence (On the MSDC web site)