

KEEP KIDMORE END GREEN



Kidmore End NDP
planning process and Plan:

A critique

11 June 2020

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A CRITIQUE OF THE KIDMORE END NEIGHBOURHOOD DEVELOPMENT PLANNING PROCESS AND DRAFT PLAN

Executive Summary

The process of preparing a neighbourhood development plan (NDP) for the Parish of Kidmore End was initiated in July 2017 at a community meeting to gauge the level of support for a Parish NDP. A steering group was established in September 2017 and a formal ‘community event’ was held in February 2018, followed by a household survey in April/May 2018.

This critique acknowledges the considerable effort made by the Kidmore End NDP Steering Group. It recognises that developing a neighbourhood plan which satisfies the wide range of community needs and expectations as well as meeting the requirements of the emerging Local Plan for South Oxfordshire is complex and at times arduous.

We welcome the broad and deep public engagement by the Steering Group via a community survey in mid-2018, but we note a lack of effective dialogue thereafter. Although community events were held in September 2019 and were followed by an online questionnaire in October 2019, only 129 residents responded - representing just 12% of the adult population of the Parish. Any analysis of the results from such a small response should be used with great caution in developing/confirming key aspects of the Plan.

The Steering Group has continued to refine its policies and develop a Plan on the assumption that its ideas satisfy the communities’ needs and expectations. Despite numerous attempts by a community group to meet with the Steering Group to discuss the validity of some of its assumptions and evidence, all requests have been rejected. This stance is incompatible with Objective 6 of the draft Plan which is “... to engage with the Parish’s communities at all stages in the development and implementation of the NDP to ensure the Plan meets their different needs and expectations, thus maintaining a strong sense of community.” It is also incompatible with Section 28 1 (d) and (e) of the Localism Act 2011 which requires the Parish Council and its sub-committees and sub-groups to be accountable and open to the public.

This critique is not intended to undermine the work of the Steering Group. On the contrary, it aims to highlight shortcomings which need to be addressed before the Plan is reviewed by the Parish Council, SODC and the independent examiner. By positively addressing these issues, the Plan will be stronger and will have a greater chance of being supported by the public at the community referendum in 2021.

Each section of this critique contains issues which should be addressed/clarified by the Parish Council and/or its NDP Steering Group. Five key issues need to be addressed as a matter of urgency:

- (1) Is the decision to include a site for housing development based on evidence drawn from an objectively assessed local need, and if not, why not?
- (2) The Plan assumes that offering a site for development of just 3-4 houses will prevent speculative development elsewhere in the Parish. This key assumption should be supported by strong evidence, including examples of this strategy being successfully applied elsewhere in a small village in a rural setting.
- (3) Why are sites CFS4, CFS8 and CFS10 considered to be favourably located in terms of community facilities and services when five of the seven criteria were assessed as poorly located? Did the call-for-sites sub-group review and approve the criteria used by AECOM to assess the suitability of sites for development, and if not, why not?
- (4) Why is the Steering Group’s only preferred site for development on greenfield land within the Chilterns Area of Outstanding Natural Beauty (AONB). This is inconsistent with the National Planning Policy Framework which states that AONBs should have the highest status of protection. Objective 3 of the Kidmore End draft NDP Plan also emphasises the importance of conserving and enhancing the

historical and environmental importance of AONB-designated land within the Parish. The decision to prioritise development on a greenfield site in the village of Kidmore End rather than brownfield sites and/or infill across the Parish should be justified.

(5) Did the Steering Group consider other options including offering more or no land for development? If so, were these options analysed in a systematic manner, and if not, why not?

Of particular concern, is the Steering Group's reluctance to engage with members of the public who simply wish to challenge some of the assumptions, evidence and decisions taken by the Steering Group. Such a reluctance undermines the democratic legitimacy of the NDP process and the public's 'ownership' of the proposed Plan. It is also inconsistent with the requirements of Clause 4 (2) (d) of Schedule 4B of the Town and Country Planning Order Act 1990 (with amendments) on the need for effective "consultation with and participation by the public." This is an issue which, if not addressed by the Parish Council and its NDP Steering Group, will be noted during the independent examination.

A CRITIQUE OF THE KIDMORE END NEIGHBOURHOOD DEVELOPMENT PLAN PROCESS AND DRAFT PLAN

1. Introduction

This critique reviews the governance arrangements of the Kidmore End NDP process, the assumptions and evidence being used to develop the plan, and the extent and form of the consultation and engagement with the public. By addressing the issues raised in this critique in a positive and timely manner, we envisage the Plan will be stronger and will have a greater chance of being supported by the public at the community referendum in 2021.

In developing its draft Plan, the Steering Group has decided to include a site for housing development despite there being no requirement from South Oxfordshire District Council (SODC), and in the absence of an objectively assessed local need. This critique explores the logic and validity of the decision and seeks further justification why it has selected a site for housing development on productive agricultural land within the Chilterns Area of Outstanding Natural Beauty (AONB). Such a decision is inconsistent with the National Planning Policy Framework (NPPF)'s requirement to give great weight to conserving and enhancing landscape and scenic beauty of AONBs and to ensure the highest status of protection. Selecting such a site for development is also inconsistent with Objective 3 of the Steering Group's draft Plan regarding conserving and enhancing the historical and environmental importance of AONB-designated land within the Parish.

The critique seeks clarification on whether the Steering Group considered other strategic options, and why other options were considered unsuitable in meeting the vision of the Plan.

"To preserve the rural and distinctive character of our villages and retain the open spaces in and around the Parish through appropriate housing development and by being geographically separate from nearby larger settlements, supporting and enhancing the Chilterns AONB, engaging with our Parish communities and prioritising road safety."

Vision as presented at the 'community' events in September 2019

2. Governance

2.1 Status of the KENDP Steering Group

The Kidmore End Parish Council (KEPC) agreed at its July 2017 parish meeting to establish an NDP Steering Group "... independent of the Council, save for funding, to take the project forward on the Council's behalf." The minutes¹ state "... the steering group (should) report to the Council at all salient points during the preparation of the plan, and seek the endorsement of the Council on key matters."

It is unclear what the terms 'independent of the Council' and 'on the Council's behalf' mean. They seem to be contradictory. Presumably, the Steering Group has authority to represent the Council on NDP matters in meetings with SODC, to brief the community via the KEPC website, and to prepare a draft Plan on behalf of the Parish Council.

It is also unclear from the TOR or minutes of the KEPC meetings, the status and role of members of the KEPC who are also members of the Steering Group. The minutes of 19 July 2017 state the Chairman and one other person "... be appointed to serve on the Steering Group, representing the Council." In what way do they represent the Council if the Steering Group is meant to be 'independent of the Council'?

2.2 Status of KENDP Steering Group sub-groups

The TOR state the Steering Group shall "... agree the governance structure for the project e.g. any working groups and what their specific responsibilities will be (and) the Group may form sub-

committees or working groups to undertake various aspects of the work involved in producing the Neighbourhood Development Plan.”

Minutes of the Steering Group in 2019 refer to at least two sub-groups/committees: a call-for-sites sub-group and a policy development sub-group. TOR for the two sub-groups are not available on the KEPC website.

2.3 Issues to be addressed/clarified by KEPC and/or the Steering Group:

(1) Were TOR for the Steering Group ever approved and accepted by the KEPC and the Steering Group itself? If not, the status of the TOR and authority of the Steering Group should be clarified.

(2) Were TOR for the sub-groups prepared and approved by the Steering Group and/or the KEPC? If not, the authority of the sub-groups should be clarified.

(3) Three members of the KEPC – including the Chair and Deputy-Chair of the KEPC - are also members of the Steering Group. There is a need to clarify how they will contribute to the Council’s review of the draft NDP before its submission to SODC and independent examination. In particular, there is a need to clarify how the KEPC will address the issues of objectivity, pre-determination and accountability by individuals holding key appointments in both the Council and Steering Group, noting *Oxfordshire’s Guide to Avoiding Bias in Decision Making*, which is attached at [Annex B](#).

3. Compliance with TORs

3.1 Public attendance at steering group meetings

Part 3 of the *Good Councillors Guide* produced by the National Association of Local Councils states that council meetings “... must be advertised and the press and public have a right to observe, record and report on how the council operates.” The same document states that this right to observe should also be adopted by sub-committees and sub-groups which report to councils.² Such an approach of welcoming public attendance to meetings is applied by most NDP steering groups.

The Steering Group TOR state that “... the Steering Group will decide whether to admit the press and public to its meetings.” However, in response to a request from a member of the public to attend NDP meetings, the Chair of the Steering Group said the attendance of the public would not be allowed. Instead, individual members of the Parish were advised to “... continue to engage with the neighbourhood development planning process by attending and expressing your views during consultation events and by making representations in response to our consultations and surveys.”³

3.2 Decision to include a site for development

The Steering Group TOR state that “... members will receive an agenda paper for meetings at least 5 days prior to the meeting (and) any documents which are to be considered prior to a meeting should be circulated at least 5 working days prior to a meeting.”

At a meeting of the Steering Group on 22 January 2019, members were invited without prior notice to vote to include a site for development in the draft Plan.

The meeting was chaired by the Deputy Chair of the Steering Group in the absence of the Chair. The intention to vote was not included in the Agenda and the key document providing guidance on the suitability and availability of sites was not made available to members of the Steering Group in advance of, or indeed during, the meeting. This approach was inconsistent with the TOR, and so the result of the vote should be considered null and void.

The result of this crucial vote (taken on 22 January 2019) was not reported to the Parish Council meeting on 23 January 2019 despite the TOR for the Steering Group requiring it to “... report to the

Council at all salient points during the preparation of the plan and seek the endorsement of the Council on key matters.”

3.3 Issues to be addressed/clarified by KEPC and/or the steering group:

- (1) The Steering Group should re-consider inviting the public to attend its meetings as observers. Altering its stance would be consistent with the spirit of its TOR and provide transparency of the process in making decisions. Like meetings of the KEPC, a short period should be allowed for members of the public to make statements. Part of the meeting could be in ‘closed session’ if it is deemed that information being considered would be prejudicial to the public interest.
- (2) Clarify the status of the key decision taken by the Steering Group on 22 January 2019 to include a site for development in the Plan – a decision taken in a manner which was inconsistent with the TOR.

4. Housing requirement and allocation

4.1 SODC requirement

SODC advised the Steering Group that the housing requirement in the neighbourhood plan for Kidmore End should be based on the housing allocations in the draft Local Plan for South Oxfordshire. Initially, SODC advised that the allocations should be in Kidmore End village only, rather than any of the other settlements within or adjoining the Parish. AECOM’s facilitation report of December 2018 states that KEPC were advised by SODC to calculate the requirement based on 5-10% of the number of houses within “... a circle of arbitrary radius centred on Kidmore End Village” which amounted to 132 houses.⁴ Hence, the original housing allocation was assessed as 6-13 new homes (i.e. 5-10% of 132), all within the village of Kidmore End.

In December 2018, SODC accepted its original approach to calculating the housing allocation was incorrect and said the target had been achieved as sufficient houses had already been built in the Parish since 2011.⁵

Therefore, there is currently no SODC requirement for the Parish to offer any sites for development in its NDP.

4.2 Local need for housing

Even if there is no requirement imposed by SODC, any community can propose site(s) for development if it feels there is a local need. Such a need should be based on a formal assessment which shows that more homes are needed to facilitate the economic and social wellbeing of communities, for example to retain a local school, shops or health centre.

The KENDP household survey of April/May 2018 included questions inviting people to express opinions on the type of dwellings to be built (bungalows, detached, semi-detached) and the number of houses in each development ... but the questions were based on the (then) assumption that the Parish had to identify sufficient sites to meet the (then) SODC requirement of 6-13 additional dwellings. The preferences (provided in the responses) were predicated on the assumption that housing sites had to be identified to accommodate a minimum of 5% additional dwellings. Had the SODC housing requirement at that time been zero, then the questions would have been different.

“In line with national and local policy context, we anticipate that Kidmore End Village itself will need to grow by a minimum of 5% by 2033 (accurate at the time of writing), whereas the other villages presently do not have proposed targets due to their infrastructure but are still subject to planning applications. Therefore, the NDP will include all of the villages within our Parish and, whichever village you live in, your views are equally relevant.”

Extract from covering note to 2018 questionnaire

No formal local need has been objectively established to provide more houses in the Parish, and it is misleading and disingenuous for the Plan to justify the ‘need’ based on the 2018 questionnaire.

4.3 Identifying suitable sites

AECOM (a multinational consultancy) conducted a ‘Site Options and Assessment’ study on behalf of the Steering Group. AECOM started its work in July 2018 based on the original assumption that the Parish had to prioritise sites to achieve the (then) target of 6-13 homes by 2033.

The Site Options and Assessment study awarded CFS8 a ‘green’ rating which classified it as ‘suitable for development’. AECOM did not say houses should be built on CFS8, merely that it was (in their opinion) suitable for development.

A planning application for this site (P88/S0375/O in 1988) was not approved by SODC due to its ‘impact on the countryside’. However, AECOM consider this previous refusal is no longer relevant as “... the planning context has changed significantly since this time.” It is unclear how an updated planning context changed the ‘impact’ of such a development on the countryside. Housing development on a site will either have a negative impact on the countryside, or it will not, regardless of a changed planning context.

Housing development on the site was again considered in 2009/10 during an assessment on the suitability of land for affordable housing in the Parish. The minutes of a KEPC meeting of 20 October 2010 state that “... the consensus of the officers (from the SODC highways and planning authorities) in respect of the suitability of sites view was that the Gallowstree Common site was the preferable site. The Kidmore End site (to the south of **name redacted**rathfillan on Tokers Green Lane) was not supported because of a lack of footways in the vicinity and because affordable housing would be too dense in relation to the character of the detached houses situated in large plots next to the site.”

Although AECOM reported on the 1988 planning application to build houses on CFS8, it failed to refer to the more recent 2010 assessment of the unsuitability of the site. This demonstrates a lack of rigour by AECOM (and indeed of the Steering Group’s oversight of AECOM’s work).

4.4 Site assessment methodology

The AECOM report concluded that all sites in the village of Kidmore End were ‘favourably located’ as they are less than 400m from a range of services. The range of services described in the report includes: town centre/local centre shop; employment location; public transport; school(s); health facilities; cycle routes; and open space/recreation/leisure facilities. The assessment for sites CFS4, CFS8 and CFS10 is shown in Figure 1.

<i>Community facilities and services</i>	Comments
<p>Is the site, in general terms, close/accessible to local amenities such as (but not limited to):</p> <ul style="list-style-type: none"> Town centre /local centre/shop Employment location Public transport School(s) Open space/recreation/leisure facilities Health facilities Cycle routes <p>Where a site is poorly located if > 800m, moderately located if 400m to 800m, and favourably located < 400m from services</p>	<p>The nearest town with shops, a health centre, public transport, a senior school and potential employment is Sonning Common: over 800m from the centre of Kidmore End.</p> <p>Poorly located Poorly located Poorly located Junior school: favourably located; Senior school: poorly located Open space: favourably located; others: poorly located Poorly located Favourably located</p> <p>The AECOM report suggests that both CFS8 and CFS10 sites are favourably located but does not explain how it came that conclusion.</p>

Figure 1: Extract from AECOM site assessment report (of April 2019) together with added comments

On 11 November 2019, a member of the public wrote to the Chair of the NDP Steering Group asking whether “... these seven groups are applied consistently to all such studies nationally, or only to studies conducted by AECOM? Does AECOM have guidelines on how to apply scores to each group and were these guidelines shared with, or indeed influenced by, the KENDP Steering Group? Was weighting applied to the seven groups, and if not why not - for example is access to health facilities considered more or less important than cycling routes? How were the scores for each group aggregated to determine the overall classification?”

The reply on 20 January 2020 stated that AECOM does not have guidelines for ascribing scores and “... their conclusions were reached on a qualitative basis meaning each site put forward was assessed individually to take account of its unique pros and cons, in terms of the sites themselves and the overall context of the Parish.”

A ‘qualitative’ approach may be valid if supported by a robust and agreed methodology, but without such an agreed methodology the results are prone to bias and error. The reply from the Steering Group suggests that no weighting was applied to the importance of the seven types of local services, and no standard method of aggregating each group of scores was used to determine an overall classification.

It is worth noting the good practice guidance by *Locality* in its *Neighbourhoods Roadmap: A step-by-step guide* suggests that community engagement events should “... allow informed (public) participation in the plan-making process and is especially important where complex issues are being considered, such as methodologies and criteria for site allocations.”⁶

4.5 Including a site in the NDP – justifying the decision

The Steering Group accepts there is no formal requirement for the Parish to include any site(s) for development in the NDP. However, they suggest that including a site in the Plan would “... demonstrate a positive approach to sustainable development within the Parish whilst protecting the Parish from inappropriate development and, in particular, large scale unplanned development.”

Section 2 of the NPPF defines sustainable development as “... development that meets the needs of the present, without compromising the ability of future generations to meet their own needs.” The three key principles which underpin sustainable development are economic, environmental and social sustainability, however AECOM’s *Site Options and Assessment Report* makes no attempt to address these three principles when considering the suitability of sites for development.

With the growing emphasis given to protecting our green spaces and woodland, and retaining productive agricultural land as a carbon sink and a means of absorbing rainfall to minimise flooding, the only site being offered up for development in the draft Plan is on a productive farmer’s field in the AONB – which is inconsistent with the NPPF’s definition of sustainable development. A similar argument could also be made for denying development on CFS4 and CFS10.

In their *Housing Requirement and Allocation Paper*,⁷ the Steering Group further argue that offering up a site for development would “... provide better protection from speculative unplanned development in the neighbourhood plan area.” However, the Paper does not explain why or how such a decision would provide better protection. Nor does it provide examples of other neighbourhood plans which have benefitted from such an approach.

In a report to the Parish Council of February 2020, the Steering Group justified its decision to allocate some land for housing as being “... an approach encouraged by the emerging Local Plan ... and by paragraph 69 of the NPPF.” However:

- (1) SODC’s Local Plan does not refer to neighbourhood plans offering land for development when there is no SODC allocation and no objectively assessed local need; and
- (2) Paragraph 69 of the NPPF merely refers to the benefits of allocating small and medium-sized sites (c.f. large sites), as small and medium-sized sites “... are often built-out relatively quickly.”

Indeed, the NPPF does not refer to offering up sites for development when there is no local authority allocation and/or objectively assessed local need.

4.6 Issues to be addressed/clarified by KEPC and/or the steering group:

- (1) Did the call-for-sites sub-group review and approve the criteria used by AECOM in assessing the suitability and availability of sites for development?
- (2) Did the call-for-sites sub-group discuss the criteria with other members of the Steering Group?
- (3) Did the Steering Group consider public participation in approving the methodologies and criteria used for site allocations - as recommended in the *Neighbourhoods Roadmap: A step-by-step guide*, and if not, why not?
- (4) How will building houses on a greenfield site within the AONB contribute to sustainable development?

5. Consultation and engagement

5.1 Best practice

The Neighbourhoods Roadmap: A step-by-step guide, provides de facto national guidance on best practice in developing a neighbourhood plan. The Guide stresses the importance of community and stakeholder engagement.

“Democratic deficit: The referendum will involve a simple ‘yes’ or ‘no’ vote on a complex document dealing with a range of issues. Properly engaging people from the beginning ensures that there is an opportunity to influence the content of the plan through a participatory process, rather than just having the option to accept or reject it in its entirety. Residents will have to weigh up carefully the things in the draft plan they are happy or unhappy about in order to reach a judgement. Democratic legitimacy will come from the combination of the referendum, effective community engagement and legally compliant consultation.”

“Avoiding tokenism: The purpose of undertaking community engagement is to inform (the public) of the evolving content of the plan. If the outcomes have already been determined, then community engagement is tokenistic. In effect it is a public relations exercise. This leads to scepticism and disillusionment.”

“Predetermined outcomes: There is no point wasting time and money on ‘consultation’ if there is no opportunity to influence what happens. Indeed, statutory consultation of this kind is unlawful.”

Extracts from Locality’s Neighbourhood Roadmap: A Step-by-Step guide

The Guide says that ‘mid-stage community engagement’ should be designed “... to provide information needed to develop the detail of the neighbourhood plan. For some sites, policies or proposals, different options may be discussed so that people can discuss the advantages and disadvantages of each. Workshops can be useful, where options can be discussed and examined. ... the thinking behind each option should be explained fully, preferably with lists of possible advantages and disadvantages. This helps people to make an informed decision.”

Objective 6 (community spirit) of the Kidmore End Plan is to “engage with the Parish’s communities at all stages in the development and implementation of the NDP to ensure the Plan meets their different needs and expectations, thus maintaining a strong sense of community.”

5.2 Early engagement

The Steering Group consulted with the community early in the process with a public meeting in July 2017 to gauge the level of support for a Parish NDP, and in February 2018 to seek initial views from residents.

In April and May 2018, a household survey was undertaken. 546 residents (i.e. 49% of the assumed adult population of 1,104) responded. As indicated earlier in this critique, the survey informed the community that the Parish was required to identify sites for 6 – 13 additional dwellings within the village of Kidmore End: a target which was later reduced to zero. Therefore, much of the analysis based on housing numbers and villages is no longer relevant.

The survey results did, however, provide strong feedback on what people want the NDP to protect, and ideally enhance in the Parish. This feedback included: the rural feel; nature and wildlife; quiet lanes; bridleways and footpaths; unspoiled; beautiful countryside; and easy access to Reading and Henley but detached from neighbouring urban areas. The 49% feedback demonstrates effective and strong community engagement in 2018.

5.3 Mid-stage engagement

In early 2019, the Steering Group's attention focused on developing the vision, objectives and policy documents. One of the Plan's objectives addresses the issue of housing development. The others address the intention to: protect, maintain and where possible enhance existing open space between, within and around our villages and hamlets; support and enhance the Chilterns AONB; uphold the current network of roads, lanes and footpaths; encourage sustainability; and engage with the Parish's communities at all stages in the development of the Plan.

In September 2019, the Steering Group held two community events: one in the village of Kidmore End and one in Gallowstree Common. The events included several display boards which described the process, timeline, and the draft vision and objectives of the Plan. Some members of the Steering Group were present at the events to answer specific questions. Following the events, residents of the Parish were invited to complete an online questionnaire. One of the questions was: "Q6: To what extent do you agree with the principle of allocating a site for development within the NDP?"

Only 129 residents from an assumed adult population of 1,104 responded to the questionnaire – representing an 11.6% response. Ninety residents indicated their full support in principle to allocate a site for housing development. This represents only 8.2%, i.e. one in twelve of adult residents in the Parish. Such a low figure should not be used to demonstrate community support for allocating a site when there is no SODC requirement and no objectively assessed local need.

5.4 Engagement with impacted residents

During the call for sites process, AECOM (and/or the sub-group advising AECOM) contacted landowners but not residents living close to the sites being considered for their availability and suitability. As mentioned earlier in this critique, the public is not allowed to attend Steering Group meetings as observers, so residents were first made aware of the decision at the community events of September 2019.

Following the publication of the results of the questionnaire, a group of residents wrote to the Chair of the Steering Group on 11 November 2019. A summary of the subsequent exchange of letters between the residents and the Chair of the Steering Group / KEPC is given at [Annex D](#), and a portfolio of the letters is at [Enclosure 1](#).

Three key messages should be noted from the correspondence: (1) the Steering Group will not allow residents to attend meetings as observers; (2) the Chair or a representative will not meet separately with the residents to exchange information and ideas; and (3) the Chair will not engage in any further exchange of correspondence with residents on the NDP process and draft Plan.

Such a position by the Steering Group is inconsistent with the guidance given in the *Neighbourhood Roadmap: A Step-by-Step guide* as it demonstrates a lack of democratic legitimacy. It is also inconsistent with the legal requirements of Clause 4 (2) (d) of Schedule 4B of the Town and Country Planning Order Act 1990 (with amendments).

5.5 Issues to be addressed/clarified by KEPC and/or the steering group:

(1) There is a need to justify further how the results of the September/October 2019 community survey provides sufficient support for including a site for development in the absence of a SODC requirement or an objectively assessed local need.

(2) The Steering Group should consider having a two-way exchange between themselves and the public using workshops or 'town hall' meetings. The 'community events' in September 2019 were essentially briefing sessions, and the subsequent survey involved the public replying to pre-determined questions. There has been no opportunity for the public to ask other questions, or to feel confident their concerns are being addressed.

6. Protecting the Chilterns AONB

6.1 National Planning Policy Framework

Paragraph 172 of the NPPF states that "... great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues."⁸

6.2 SODC Local Plan

Policy ENV1: Landscape and Countryside of SODC's Local Plan 2011-2024 states that "... the highest level of protection will be given to the landscape and scenic beauty of the Chilterns and North Wessex Downs Areas of Outstanding Natural Beauty (AONBs). Development in an AONB or affecting the setting of an AONB will only be permitted where it conserves, and where possible, enhances the character and natural beauty of the AONB. Development in an AONB will only be permitted where it is appropriate to the economic and environmental wellbeing of the area or promotes understanding or enjoyment of the AONB."⁹

6.3 Draft Kidmore End NDP

Objective 3 of the draft Plan is to "... conserve and enhance the historical and environmental importance of AONB-designated land within our Parish and the worth of similar adjacent valued landscapes."

6.4 Issues to be addressed/clarified by KEPC and/or the Steering Group:

Noting that the only site considered as suitable for development in the Plan is located within the Chilterns AONB, explain how:

(1) The NPPF requirement to conserve and enhance the landscape and scenic beauty of AONBs was objectively assessed and met;

(2) The misalignment of the Kidmore End NDP with Policy ENV1 of the SODC Local Plan was objectively assessed and met; and

(3) Objective 3 of the Kidmore End NDP regarding conserving and enhancing the historical and environmental importance of AONB-designated land within the Parish was objectively assessed and met.

7. Alternative NDP options

If the primary purpose of including a site for development (of 3-4 houses) is to protect the Parish against much larger speculative development, did the Steering Group consider including a larger area,

or indeed two or more smaller areas? If planning approval is given for 250 houses on the Reading Golf Club site, there is every expectation the developer will wish to extend the site into South Oxfordshire. A single site of 3-4 houses does not seem to offer credible protection in such a scenario.

Indeed, it can be argued that including CFS8 - when there is no SODC requirement or objectively assessed need for more houses - would signal to developers and others that the Parish is willing to accept development on greenfield sites within the AONB.

AECOM's comparison of the 'suitability' of CFS4,¹⁰ CFS8¹¹ and CFS10¹² shows only minor differences between the three sites. All are considered to be 'favourably located' – a conclusion we challenge in paragraph 4.4 of this critique.

- The former area of woodland in CFS10 cleared in 2019 by the landowner exceeds the 0.49 hectares considered by AECOM. No further clearance is therefore required, suggesting concerns in AECOM's study of the negative impact of development on the 'landscape' and 'existing social or community value' now carry less weight as the damage has already been done. It is also likely the tree preservation order will no longer be relevant as no more trees need to be felled.
- The land at Old Farmyard (CFS4) behind Pond House is equally vulnerable to potential development. The two stated constraints in the *Housing Requirement and Allocation* paper for development on CFS4 are (1) access from Kidmore Lane, and (2) how "... dwellings could interact with (Pond House) so close to it." However, access to CFS4 is no more or less of an issue than CFS8¹³ as trees and tall hedges would need to be removed to achieve the required 'visibility splay' distances. The suitability of the house design is something to be addressed in the housing design policy part of the Plan, and when a planning application is made. Pre-judgement on the suitability or unsuitability of house design is not something to rule a site in or out at this stage in the NDP development process.¹⁴

So, both CFS4 and CFS10 are vulnerable to development based on the current criteria for determining the availability and suitability of sites in Kidmore End for potential development.

Perhaps a better option would be a commitment in the NDP to encourage homes to be built only on brownfield sites and by promoting infill - as suggested in the *Landscape Sensitivity Study* report. Using historical data, has the Steering Group calculated how many homes could be built through infill between now and 2034?

Did the Steering Group consider a 'do nothing' option - as chosen by the Parish of Rotherfield Peppard? Would a similar approach be suitable for the Parish of Kidmore End, and if not, why not?

8. Unintended consequences

Strong feedback from the public during the 2018 community survey is the importance of retaining the rural feeling of the Parish. Objective 4 of the Plan aims to uphold the current network of roads, lanes and footpaths, which reflect the rural nature of our Parish for all users. We note the Steering Group intends to develop a Preservation of Footpaths and Tracks policy.

It is ironic that the landowner of CFS8 in late 2019 installed gates and barbed wire at the entrance to his field, and has closed a footpath which has been available (albeit informally) to the public for many years. A Google satellite image of 2009 clearly shows the path, and aerial photographs provide evidence of earlier use. Residents of the village report using the path over 50 years ago.

A map at [Annex E](#) shows how the footpath previously formed part of a continuous network of footpaths (some formally recorded as rights-of-way, some as permissive paths, and some informally used by the public) around the village of Kidmore End. As a priority, the Parish Council, as the competent authority for public footpaths, needs to explore options to re-open the route to enable the public to benefit from the network of footpaths and other routes through and around the village of Kidmore End.

Endnotes:

1. Minutes of Kidmore End Parish Council Meeting of 19 July 2017, Agenda 3.13.
2. *Good Councillor's Guide*, National Association of Local Councils, 2016, Page 31.
3. Letter to Mr S. Roe from Chair of the Kidmore End NDP Steering Group, 12 December 2019.
4. *Kidmore End Neighbourhood Plan, Facilitation Report*, AECOM, 19 December 2018.
5. *Report to KEPC: Kidmore End Neighbourhood Development Plan*, prepared by Kidmore End NDP Steering Group, February 2020.
6. *Neighbourhoods Plans Roadmap: A step-by-step guide*, Part C, page 18. Locality 2018
7. *Kidmore End NDP: Housing Requirement and Allocation Paper*, July 2019 (Updated January 2020), paragraph 15.2 Conclusions.
8. Ministry of Housing, Communities & Local Government, *National Planning Policy Framework*, February 2019, paragraph 172
9. *South Oxfordshire Local Plan 2011-2034*, January 2019, page 169, Policy ENV1: Landscape and Countryside
10. AECOM, *KENDP Site Options & Assessment Final Report*, November 2018 (with minor updates April 2019), pages 76-80.
11. *Ibid*, pages 86-90.
12. *Ibid*, pages 96-100.
13. The width of Tokers Green Lane in the approach to the CFS8 is 3.5m (to the north) and 4.2m (to the south). The width of Kidmore Lane in the approach to CFS4 is 4.0m (to the north) and 4.2m (to the south). The entrance at CFS8 would need to be steeper than the entrance to CFS4. Both sites would require trees and tall hedges to be removed on either side of the entrances to achieve the required 'visibility splay' distances.
14. The AECOM *Site Options and Assessment* paper states that "Some or all of the site is within the setting of Grade ii listed Pond House. While this is not an absolute constraint on development, it would require mitigation measures including sensitive design and/or potential reduction in dwelling numbers, subject to more detailed master planning assessment."

KIDMORE END PARISH COUNCIL
Kidmore End Neighbourhood Development Plan Steering Group

TERMS OF REFERENCE

PURPOSE OF THE GROUP

The Kidmore End Neighbourhood Development Plan Steering Group brings together representatives of Kidmore End Parish Council and stakeholders and members of the local community. Officers from the South Oxfordshire District Council will be able to assist the Group but will not be voting members. The main role of the Steering Group is to manage the production of a neighbourhood development plan for Kidmore End.

ROLE OF THE GROUP

The role of the group is to:

- recommend a budget to the Parish Council, and recommendations as to how it will be funded, including appointment of specialist consultants or advisers;
- agree the governance structure for the project e.g. any working groups and what their specific responsibilities will be;
- prepare and agree a project plan which complies with the legislative requirements for producing a neighbourhood plan;
- manage working groups;
- ensure working groups have clear terms of reference related to their responsibilities and the project plan.

MEMBERSHIP OF THE GROUP

The Steering Group will consist of *parish councillors and local people* as shown in the table below.

Name	Organisation
Susan Biggs	Parish Council
Iain Pearson	Parish Council
Lyn Stewart-Ashley	Member of the local community
Anna Vorster	Member of the local community
Bettina Kirkham	Member of the local community
Judith Wright	Member of the local community
Anna Cronin-Scott	Member of the local community
Mike Bishop	Member of the local community
Jane Williams	Member of the local community
Rex Butters	Member of the local community

Caroline Aldridge	Parish Council
Sonia Rayner	Member of the local community
Peter Ward	Member of the local community

(add more rows as required)

The Group may form sub-committees or working groups to undertake various aspects of the work involved in producing the Neighbourhood Development Plan, involving persons beyond the membership of the Steering Group

The Steering Group can also co-opt additional members to discuss particular issues where necessary or to join the Steering Group if required. These will be non-voting members.

Individual Members' responsibilities

The decisions made by the group will undoubtedly require compromise and consensus building. Consequently, members should ensure they are:

- able and willing to make decisions and recommendations on behalf of their body/organisation committed to helping to guide the preparation of the neighbourhood plan;
- supportive and committed to the process and its implementation;
- willing to work with the Group, accommodating views that are different from their own, seeking consensus and accepting compromise to reach agreement on the issues before the group;
- open minded and able to consider the whole picture, not seeking simply to promote sectional interests;
- able to represent the group and its work in a positive light to the wider community;
- prepared to work with other groups/agencies in a constructive way to achieve the best outcomes for the area;
- ensure that they attend all meetings;
- assess existing evidence about the needs and aspirations of the Parish, commission any technical evidence, e.g. housing and infrastructure needs to support the development of a neighbourhood plan, and identify gaps;
- consider progress reports and work undertaken and agree appropriate course of action;
- agree a programme of community engagement and public consultation at appropriate stages to ensure that the information gathered is representative of those living within the Parish of Kidmore End
- undertake analysis, interpretation and reporting of the results from community engagement and public consultation activities and ensuring that they inform decision-making (either directly, or within the aid of consultants);
- ensure that any planning related documentation complies with the District Council's Statement of Community Involvement (SCI) and is appropriate for adoption;
- ensure consultation with and co-operation from key stakeholders to ensure the deliverability of the project and of proposals included in the final plan;
- promote the appropriate development of the Parish in accordance with the Neighbourhood Development Plan.
- work positively with the District Council to ensure the plan is in conformity with the adopted

development plan;

- Work positively with the District Council in auditing the project plan or the use of any grant funding from the District Council.

CHAIRMAN AND OTHER OFFICES

The Steering Group will appoint/elect a Chairman and Deputy Chairman from the Group members.

Both the Chairman and Deputy shall remain in that position following their election until completion of the project.

The Chairman, or in his or her absence, the Deputy, will be responsible for dealing with any media enquiries.

The Steering Group will appoint a Secretary to summon meetings, draft minutes of meetings and draft periodic reports to the Parish Council.

COMMITMENT FROM DISTRICT COUNCIL OFFICERS

District Council Officers will be performing an advisory role and should seek to ensure that all recommendations or outcomes of this process are in compliance with current policies and/or strategies, and are used to inform the future development of policies, strategies or direct implementation of work. Other responsibilities include:

- initial advice and an introductory meeting to explain the process
- advice on an appropriate consultation strategy and how consultation should be recorded
- advice on the evidence needed to prepare the plan and details of statutory consultees
- a 'critical friend' role throughout the drafting of the plan, attending steering group meetings where necessary to provide advice and support
- reviewing draft documents to ensure they meet the basic conditions
- support for publicity that you may wish to carry-out
- funding for towns, larger villages and smaller villages
- advice and support dealing with the media and publicising your work.
- bring in resources as required from other teams across the District Council to provide additional specialist advice.
- Facilitate discussion where the Steering Group has conflicting views
- Identify best practice from elsewhere

MEETINGS

The Group will meet at key stages in the development of the Neighbourhood Development Plan. The dates and regularity of meetings will be set by the Group depending on the stage of the process and workload.

The Steering Group members will receive an agenda paper for meetings at least 5 days prior to the meeting.

Any documents which are to be considered prior to a meeting should be circulated at least 5 working days prior to a meeting.

Minutes of all meetings will be recorded and kept on file for reference, draft minutes of meetings will be circulated following each meeting, after clearance by the Chair.

The Steering Group will decide whether to admit the press and public to its meetings.

Decision Making

All members of the Steering Group, with the exception of co-opted members will have an equal vote in decision making.

However, it is likely that some decisions will be in the form of a recommendation to the Parish Council or the District Council, for their consideration.

Decisions made by the Group should normally be by consensus at Group meetings. If this is not possible, decisions will be taken by vote, with each member present having one vote, and a simple majority will be required to support a decision.

A minimum of *seven members, one of whom must be a parish councillor*, must be present to enable decisions to be taken. The Chairman, or in their absence, the Deputy Chairman, shall have the casting vote.

Conflicts of interest

Steering Group members should declare an interest where there is a potential financial or pecuniary benefit to themselves, or their company/organisation, arising from the decisions or recommendations of the group.

FINANCE

All financial transactions in connection with Steering Group and the Neighbourhood Development Plan will be arranged by the Parish Council and will be subject to the Parish Council's Financial Regulations, unless the Council decides otherwise.

REVIEW OF THE GROUP

The Steering Group will be disbanded upon completion of the project, at a time to be agreed by *the Parish Council*

R F Penfold Clerk
Kidmore End Parish Council

Updated 12.3.2019
Updated 04.02.2020

BIAS IN DECISION MAKING – HOW TO RECOGNISE AND AVOID IT

A SIMPLE GUIDE FOR COUNCILS IN OXFORDSHIRE

1. Local authorities must act within the law. The law provides that decisions which are tainted by bias may be quashed by the Courts. Successful challenges to the legality of a decision are costly and time consuming. The purpose of this guide is to help Members identify the issue and provide advice as to how to respond to it.
2. If, as a Councillor, you have a disclosable pecuniary interest (DPI) in a matter being discussed at a meeting, then this will be presumed bias and you should declare your interest and withdraw from the meeting room. You should not use your public office to seek information or to influence in any way a matter in which you have a DPI. As well as vitiating the decision, you may be committing a criminal offence which is punishable by a fine or imprisonment and which may also result in you being disqualified from office.
3. **A more difficult area is that of apparent bias. This is where you do not have a DPI in a particular matter but some other interest you have in the matter or your actions in relation to it make your participation in the decision untenable.**

The question that a Court would ask itself is whether a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the decision maker was biased. In the local government context, the decision maker might be a single Councillor but is more likely to be a number of Councillors meeting as a Committee, Cabinet or as the entire Council. It may only require one Member to be biased for the decision to be vitiated, even if the majority on the decision making body are not. This rule applies to any decision of an Authority, regardless of its nature.

4. The test that the Court applies is an objective one. What would the fair minded and informed observer think of it? Not, do you think you are biased (which would be a subjective test). The hypothetical fair minded observer is assumed to be a reasonable member of the public who is neither complacent nor unduly sensitive or suspicious. There are a couple of scenarios which are particularly likely to raise issues of apparent bias.
5. **The first scenario concerns pre-determination. This is where things you do or say in advance of, or at, a meeting suggest that your mind is completely made up regardless of any information available to you when the decision is actually made.** The law says that you must keep an open mind but the law also recognises that you may hold and express strong views, just so long as your mind is not completely closed on an issue. Of course, one never knows the mind of another, so this scenario only ever arises when a Councillor has chosen to be outspoken on an issue.

Generally speaking, it is advisable to avoid being outspoken on regulatory issues where individual rights or interests are being determined.

6. The second scenario concerns conflicts of interest. This is where other personal interests that you have (which do not qualify as DPI's) e.g. being a trustee of a charity or sitting on the management body of a local body or living in close proximity to a planning application site or being related to an applicant for a permission or licence, might be perceived as preventing you from giving objective consideration to an issue. Whilst such interests would not normally prevent you from participating in a decision there may be situations where the matter being discussed is so significant for and closely connected with the interests of the other body that a fair minded and informed observer would think there to be a real possibility of bias. This is an area where seeking advice is particularly important.
7. In both of these scenarios, if you consider that there may be apparent bias then you should not participate in the decision and it is advisable to leave the meeting room for that item. Whilst

there is no requirement to declare your 'interest' (as you must do for DPI's) , you may wish to do so in order to signal, clearly, your non-participation and withdrawal.

8. If you are in any doubt about these scenarios or any others then you should always seek the advice of your Monitoring Officer (for Principal Councils) or Clerk (for Parish Councils). This guide has been produced by the Monitoring Officers of the Oxfordshire Authorities in consultation with the Oxfordshire Association of Local Councils and we hope that Councillors find it helpful.

December 2015

TOWN AND COUNTRY PLANNING ORDER ACT 1990 (INCLUDING AMENDMENTS)

Extract from Schedule 4B: Process for making of Neighbourhood Development Orders

Requirements to be complied with before proposals made or considered

- 4 (1) Regulations may make provision as to requirements that must be complied with before proposals for a neighbourhood development order may be submitted to a local planning authority or fall to be considered by a local planning authority.
- (2) The regulations may in particular make provision—
- (a) as to the giving of notice and publicity,
 - (b) as to the information and documents that are to be made available to the public,
 - (c) as to the making of reasonable charges for anything provided as a result of the regulations,
 - (d) as to consultation with and participation by the public,
 - (e) as to the making and consideration of representations (including the time by which they must be made),
 - (f) requiring prescribed steps to be taken before a proposal of a prescribed description falls to be considered by a local planning authority, and
 - (g) conferring powers or imposing duties on local planning authorities, the Secretary of State or other public authorities.
- (3) The power to make regulations under this paragraph must be exercised to secure that—
- (a) prescribed requirements as to consultation with and participation by the public must be complied with before a proposal for a neighbourhood development order may be submitted to a local planning authority, and
 - (b) a statement containing the following information in relation to that consultation and participation must accompany the proposal submitted to the authority—
 - (i) details of those consulted,
 - (ii) a summary of the main issues raised, and
 - (iii) any other information of a prescribed description.

Consideration of proposals by authority

- 5 (1) A local planning authority may decline to consider a proposal submitted to them if they consider that it is a repeat proposal.
- (2) A proposal (“the proposal in question”) is a “repeat” proposal for the purposes of this paragraph if it meets conditions A and B.
- (3) Condition A is that in the period of two years ending with the date on which the proposal in question is received—
- (a) the authority have refused a proposal under paragraph 12 or section 61E(8) that is the same as or similar to the proposal in question, or
 - (b) a referendum on an order relating to a proposal under this Schedule that is the same as or similar to the proposal in question has been held under this Schedule and half or less than half of those voting voted in favour of the order.

- (4) Condition B is that the local planning authority consider that there has been no significant change in relevant considerations since the refusal of the proposal or the holding of the referendum.
 - (5) For the purposes of this paragraph “relevant considerations” means—
 - (a) national policies and advice contained in guidance issued by the Secretary of State that are relevant to the draft neighbourhood development order to which the proposal in question relates, and
 - (b) the strategic policies contained in the development plan for the area of the authority (or any part of that area).
 - (6) If the authority decline to consider the proposal, they must notify the qualifying body of that fact and of their reasons for declining to consider it.
- 6
- (1) This paragraph applies if—
 - (a) a proposal has been made to a local planning authority, and
 - (b) the authority have not exercised their powers under paragraph 5 to decline to consider it.
 - (2) The authority must consider—
 - (a) whether the qualifying body is authorised for the purposes of a neighbourhood development order to act in relation to the neighbourhood area concerned as a result of section 61F,
 - (b) whether the proposal by the body complies with provision made by or under that section,
 - (c) whether the proposal and the documents and information accompanying it (including the draft neighbourhood development order) comply with provision made by or under paragraph 1, and
 - (d) whether the body has complied with the requirements of regulations made under paragraph 4 imposed on it in relation to the proposal.
 - (3) The authority must also consider whether the draft neighbourhood development order complies with the provision made by or under sections 61E(2), 61J and 61L.
 - (4) The authority must—
 - (a) notify the qualifying body as to whether or not they are satisfied that the matters mentioned in sub-paragraphs (2) and (3) have been met or complied with, and
 - (b) in any case where they are not so satisfied, refuse the proposal and notify the body of their reasons for refusing it.

Independent examination

- 7
- (1) This paragraph applies if—
 - (a) a local planning authority have considered the matters mentioned in paragraph 6(2) and (3), and
 - (b) they are satisfied that the matters mentioned there have been met or complied with.
 - (2) The authority must submit for independent examination—
 - (a) the draft neighbourhood development order, and

- (b) such other documents as may be prescribed
- (3) The authority must make such arrangements as they consider appropriate in connection with the holding of the examination.
- (4) The authority may appoint a person to carry out the examination, but only if the qualifying body consents to the appointment.
- (5) If—
 - (a) it appears to the Secretary of State that no person may be appointed under sub-paragraph (4), and
 - (b) the Secretary of State considers that it is expedient for an appointment to be made under this sub-paragraph,the Secretary of State may appoint a person to carry out the examination.
- (6) The person appointed must be someone who, in the opinion of the person making the appointment—
 - (a) is independent of the qualifying body and the authority,
 - (b) does not have an interest in any land that may be affected by the draft order, and
 - (c) has appropriate qualifications and experience.
- (7) The Secretary of State or another local planning authority may enter into arrangements with the authority for the provision of the services of any of their employees as examiners.
- (8) Those arrangements may include—
 - (a) provision requiring payments to be made by the authority to the Secretary of State or other local planning authority, and
 - (b) other provision in relation to those payments and other financial matters.
- 8 **(1) The examiner must consider the following—**
 - (a) whether the draft neighbourhood development order meets the basic conditions (see sub-paragraph (2)),
 - (b) whether the draft order complies with the provision made by or under sections 61E(2), 61J and 61L,
 - (c) whether any period specified under section 61L(2)(b) or (5) is appropriate,
 - (d) whether the area for any referendum should extend beyond the neighbourhood area to which the draft order relates, and
 - (e) such other matters as may be prescribed.
- (2) A draft order meets the basic conditions if—
 - (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order,
 - (b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order,
 - (c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order,

- (d) the making of the order contributes to the achievement of sustainable development,
- (e) the making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- (f) the making of the order does not breach, and is otherwise compatible with, EU obligations, and
- (g) prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.

SUMMARY OF CORRESPONDENCE BETWEEN THE RESIDENTS LIVING CLOSE TO THE SITE SELECTED FOR DEVELOPMENT AND THE NDP STEERING COMMITTEE

Following the publication of the results of the October 2019 questionnaire, a group of residents living close to CFS8 (the site to be included in the Plan for development) wrote to the Chair of the Kidmore End NDP Steering Group on 11 November 2019 expressing their concerns and seeking answers to a several questions.

Following a meeting of the Parish Council, the group wrote to the Chair of the Steering Group on 25 November 2019 requesting that residents be allowed to attend Steering Group meetings "... as observers, and ideally be given the opportunity to make statements. This would be consistent with Objective 4 of the draft Plan as set out in the *Housing Requirement and Allocation* paper to engage with the Parish's communities at all stages in the development and implementation of the NDP to ensure the Plan meets their different needs and expectations, thus maintaining a strong sense of community. As those living closest to site CFS8 we feel it is important that your Committee fully understands our needs and expectations."

On 11 December 2019, the Chair responded stating that residents living close to CFS8 would be unable to attend meetings of the Steering Groups as "... members with an interest on a particular site are excluded from discussions/considerations relating to that site."

On 17 December 2019, the Clerk of the Council commented on why the AECOM facilitation report of 19 December 2018 stated that "... it is the intention of the Parish Council that the neighbourhood plan will include allocations for housing development" in advance of the Steering Group presenting its draft plan to the Parish Council for consideration.

On 6 January 2020, the residents wrote to the Chair of the Steering Group with four specific questions regarding the methodology adopted by AECOM to assess the suitability of each site for development, and in particular the availability of community facilities and services.

On 9 January 2020, the residents wrote to the Clerk of the Council seeking clarification on the form and degree of oversight the Council is expected to have over the work of the Steering Group.

On 20 January 2020, the Chair informed the residents that the Steering Group "... do not intend to engage in further exchange of correspondence with you or any other groups."

On 22 January 2020, the residents wrote again, inviting the Chair "... or a representative to join the CFS8 group for an informal discussion sometime soon where we could exchange information and ideas - which hopefully will lead to a better, collective understanding of the situation. It is our wish to support a neighbourhood development plan which is consistent with a vision of retaining a green and rural Kidmore End." No reply was provided.

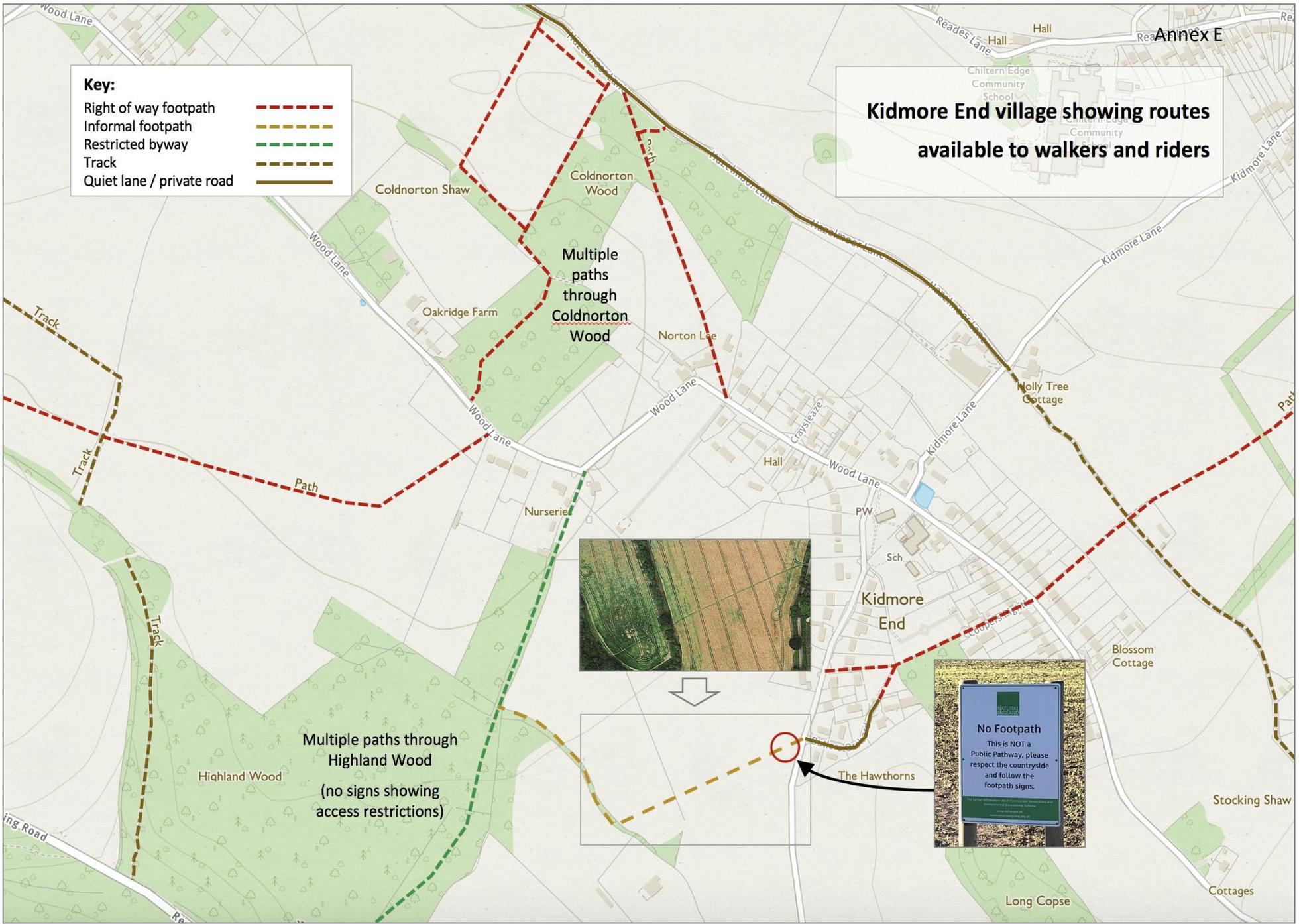
On 25 February 2020, the Clerk of the Council forwarded a copy of a report prepared by the Steering Group "... on the circumstances of its decision to identify a possible site for development in the village of Kidmore End."

On 9 March 2020, the residents wrote to the Clerk of the Council commenting on the Steering Group's report. The residents' letter addressed the issues of: (1) the absence of an objectively assessed need; (2) the need for sustainable development to be consistent with the definition given in Section 2 of the National Planning Policy Framework (NPPF), sustainable development is defined as "... development that meets the needs of the present, without compromising the ability of future generations to meet their own needs"; (3) the benefits of allocating land; (4) the process followed by the Steering Group in recommending a site for development; and (5) the lack of a willingness to allow the public to participate in the development of the Plan.

On 3 May 2020, the residents wrote to the Chair of the Council requesting the Council to invite the Steering Group to pause its work as the ongoing development of the NDP Plan without the full support

of the public would be divisive and discordant at a time when we should be pulling together as a Parish community.

On 22 May 2020, following the KEPC meeting of 20 May, the residents wrote expressing their concern that the Steering Group was continuing to develop its Plan. The residents explained they would be preparing a “.... consolidated list of the issues/concerns for the Steering Group.” This critique represents the ‘consolidated list of issues/concerns.’



Kidmore End village. Site comparisons.

The CFS8 edge of settlement vs. CFS10 village settlement infill.

CFS8 circa 0.49 Ha. vs. CFS10 circa 0.19 - 0.22 Ha.



Kidmore End village 2021 settlement boundary line (approx.)

KENDP site **CFS8** and KENDP site **CFS10**.

PRELIMINARY ECOLOGICAL APPRAISAL
(COMPRISING AN EXTENDED PHASE 1
HABITAT & PROTECTED SPECIES SCOPING
SURVEY) OF:
LAND BETWEEN COOPERS PIGHTLE AND
BUTLERS ORCHARD
KIDMORE END
RG4 9AZ


Our reference: ECO2537c

Report date: 28 April 2020

Author: Ryan Davies BSc (Hons) ACIEEM

Checked by: Giles Sutton BSc (Hons) MSc CEnv MCIEEM

Report issued in electronic format only



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1.0 Introduction

Survey and reporting

- 1.1 This report details the results of a Preliminary Ecological Appraisal (comprising an Extended Phase 1 Habitat and Protected Species Scoping Survey) of a parcel of between Coopers Pightle and Butlers Orchard, Kidmore End, Reading, RG4 9AZ.
- 1.2 The survey, carried out on 18 February 2020, was undertaken to inform proposals to develop the site.

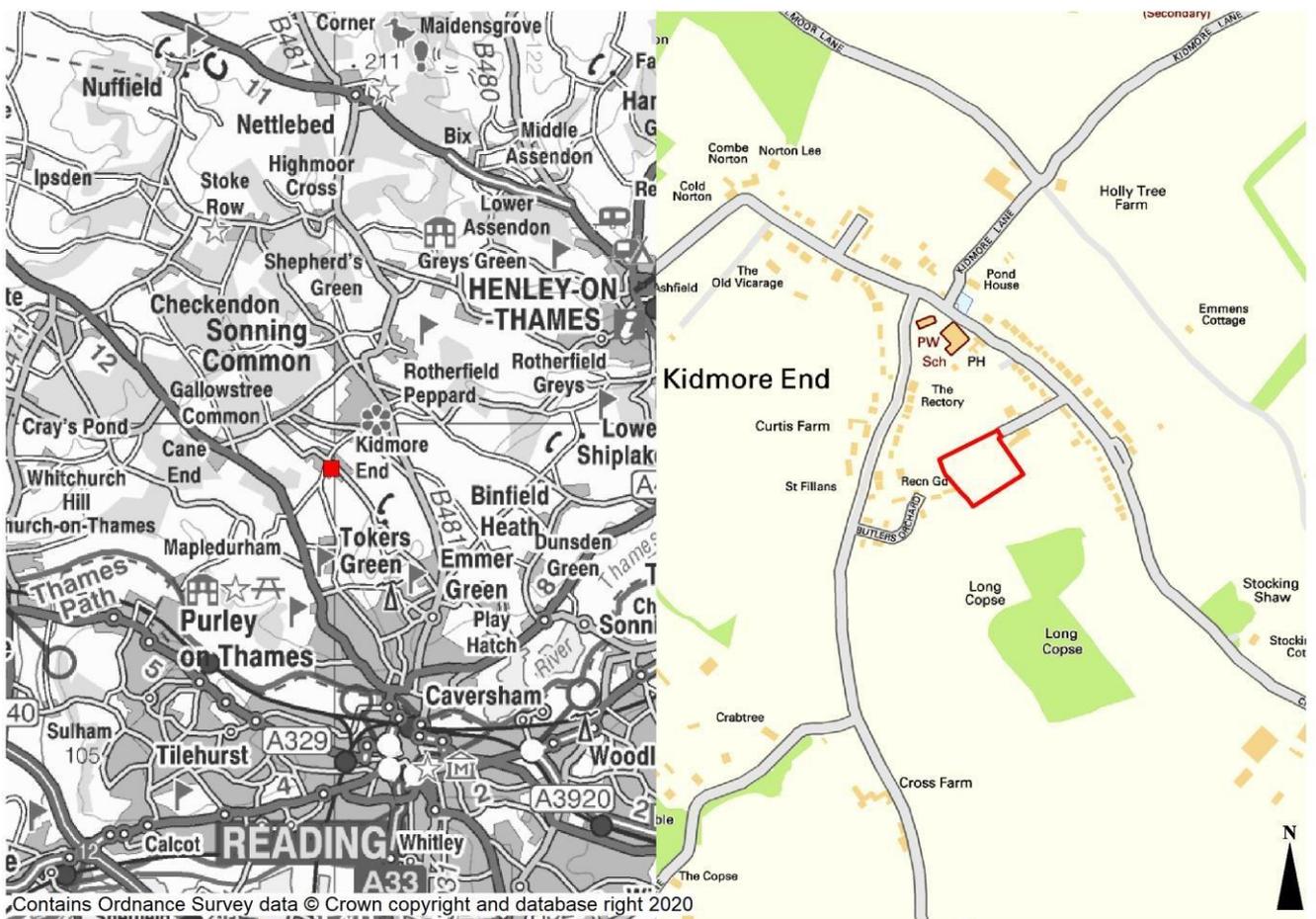
Application site

- 1.3 The application site is located at the end of Coopers Pightle, a primarily residential cul-de-sac off Chalkhouse Green Road, in Kidmore End (National Grid Reference SU69937912, Figure 1).

Details of proposed works

- 1.4 It is proposed to erect four new detached dwellings with attached garages, hardstanding access track, and their associated hard and soft landscaping.
- 1.5 At the time of the survey the development footprint had largely been cleared of vegetation. It is therefore unlikely that any further trees need to be removed to facilitate the development.

Figure 1 – Survey area



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2.0 Methodology

Desk study

- 2.1 A desk study data search was undertaken. This involved reviewing publicly available datasets and citations of statutory designated sites of importance for nature conservation, Natural England's Priority Habitat Inventory GIS dataset for England, and Natural England's Ancient Woodland Inventory for sites within the zone of influence of the survey area (considered to be a maximum of 1km in this case).
- 2.2 In addition, species records (on the MAGIC website¹) were accessed, and aerial photographs and Ordnance Survey maps were studied for features of interest.

Extended Phase 1 Habitat and Protected Species Scoping Survey

- 2.3 An Extended Phase 1 Habitat and Protected Species Scoping Survey was undertaken. This comprised a walkover survey of the application site and the classification of habitats following the descriptions provided within the Joint Nature Conservancy Council 'Handbook for Phase 1 Habitat Survey' (NCC 1990, JNCC 1993). An assessment of the site in terms of its suitability for notable or protected species was carried out and any features of note were described.

Surveyor details

- 2.4 The survey was undertaken by Giles Sutton BSc MSc MCIEEM CEnv of GS Ecology Ltd. Giles holds a Natural England WML A34 Level 2 bat survey licence, is registered to use Natural England's Low Impact Class Licence WML-CL21 (Bat Low Impact), holds a Natural England great crested newt survey licence (WML-CL08), is a full member of the Chartered Institute of Ecology and Environmental Management (CIEEM) and is a Chartered Environmentalist with more than 15 years' experience as professional ecologist..

¹ <http://www.natureonthemap.naturalengland.org.uk/>

3.0 Results

Desk study

Statutory sites of importance for nature conservation

- 3.1 There are no statutory sites of importance for nature conservation within 1 km of the application site.

Ancient woodland

- 3.2 There are eight areas of woodland listed on Natural England's Ancient Woodland Inventory within 1 km of the application site, the nearest of which - Long Copse, is located approximately 120m to the south.

Protected and notable species records

- 3.3 Within 2 km of the site there are two records of licenses issued by Natural England for works affecting protected species on The MAGIC website. These records are summarised in Table 1 below.

Table 1 – Records of licenses issued by Natural England for development works affecting protected species

Distance from application site	Species affected	Roost type	Year licence was issued
1.5km SOUTH-east	Brown long-eared bat, common pipistrelle, soprano pipistrelle	Non-breeding	2012
1.3km SOUTH-east	Brown long-eared bat, common pipistrelle, soprano pipistrelle	Non-breeding	2012
1.2km SOUTH	Brown long-eared bat, common pipistrelle	Non-breeding	2017

Ordnance survey maps

- 3.4 There is a single pond shown on ordnance survey maps within 500m of the application site. This pond - Kidmore End Pond - is located approximately 175m north of the site, at the intersection of Chalkhouse Green Road and Kidmore Lane.

Habitats surrounding the application site

- 3.5 The application site is located between Coopers Pightle and Butlers Orchard, primarily residential cul-de-sacs off Chalkhouse Green Road and Tokers Green Lane respectively, in Kidmore End. Directly to the east, west, and further north, are residential properties and their associated large gardens with trees. To the north is a cemetery with a number of scattered trees, beyond which is an amenity grassland playing field. Adjacent to southern boundary is a block of woodland that continues further south. Further to the south east and south west are agricultural fields (arable and pasture) with some trees along their boundaries.

Habitats within the application site

- 3.6 A Phase 1 habitat map and associated target notes are provided in Appendix 1. A description of the habitats within the application site is given below, photos are provided in Appendix 2:

Bare ground

- 3.7 The majority of the site was bare ground where it had been recently cleared of vegetation. At the peripheries, particularly to the north, there were some scattered nettle, bramble and snowdrop.

Broadleaved woodland

- 3.8 The eastern boundary comprises a band of young woodland. Species include cherry, blackthorn, hawthorn, ash, oak. The trees have a height of up to 8m and a diameter at breast height (DBH) of 10 to 40cm. The ground flora includes snowdrop, lord and ladies, nettle and cleavers.
- 3.9 The southern boundary, adjacent to the woodland is predominantly tall hawthorn scrub with a height of up to 6m and a DBH of approximately 10cm. There was very little ground flora present.
- 3.10 The western boundary includes some more mature trees, predominantly oak, with occasional hawthorn between them. Other than nettle there was very little ground flora present.
- 3.11 There were numerous rabbit burrows in the woodland none of which appeared to have been used by badgers.

4.0 Assessment and recommendations

Statutory sites of importance for nature conservation

- 4.1 There are no statutory sites of importance for nature conservation within 1 km of the site. As such statutory sites should not be a constraint to the proposals.
- 4.2 There are eight areas of woodland listed on Natural England's Ancient Woodland Inventory within 1 km of the application site, the nearest of which - Long Copse, is located approximately 90m to the south.
- 4.3 However, it is considered unlikely that the proposals will affect Long Copse or any other areas of ancient woodland.

Habitats

- 4.4 The Secretary of State periodically publishes a list of habitats that are of principal importance for the conservation of biodiversity in England under Section 41 (S41) of the 2006 Natural Environment and Rural Communities (NERC) Act. The list currently comprises 56 habitats, referred to as "priority habitats" in the National Planning Policy Framework (NPPF). Paragraph 174 of the NPPF states that:
"To protect and enhance biodiversity and geodiversity, plans should [...] promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and PURSUE opportunities for SECURING measurable net gains for biodiversity"
- 4.5 and as such where priority habitats are found they should be protected from the adverse impacts of development.
- 4.6 The broadleaved woodland on site, which is listed on Natural England's Priority Habitat Inventory for England as "Deciduous Woodland", fits the description of the priority habitat "lowland mixed deciduous woodland" [The description of Lowland Mixed Deciduous Woodland, as given by the Joint Nature Conservation Committee is given in Appendix 4].
- 4.7 As such, a buffer should be maintained between the construction zone and the remaining woodland.
- 4.8 The development footprint which is now bare ground is of limited ecological value as it has no vegetation within it.

Great crested newts

Legislation and ecology

- 4.9 Great crested newts (GCN) receive special protection under UK law and it is an offence under the Wildlife and Countryside Act 1981 (as amended) and the European Habitats and Species Directive (92/43/EC), enacted in the UK through The Conservation of Habitats and Species Regulations 2017 (The Habitat Regulations) to deliberately or recklessly destroy or damage their habitat, or to disturb, kill or harm them without first having obtained the relevant licence for derogation from the regulations from the Statutory Nature Conservation Organisation (the SNCO - Natural England in England).
- 4.10 GCN spend most of their lives on land, within up to 500m of a breeding pond. The most important terrestrial habitat is within 100m, where the majority of the population are likely to be located foraging, resting, sheltering and hibernating relatively close to their breeding site. However, a

proportion of the population is also likely to forage for food and shelter in suitable habitats up to 250m from a breeding pond and juvenile animals have been known to disperse up to 500m from it in a single season.

- 4.11 GCN are likely to be disturbed by any work that involves altering their breeding pond (e.g. by introducing fish or deepening or altering its size) or works that involve clearing land up to 500m around ponds, where such land has been managed and maintained in such a way that it is likely to support great crested newts. In such cases a licence for derogation from the provisions of the habitat regulations may need to be obtained.
- 4.12 In addition, GCN are a species of principal importance for the conservation of biodiversity in England under Section 41 (S41) of the 2006 Natural Environment and Rural Communities (NERC) Act (these are the “priority species” as per the NPPF).

Site status

- 4.13 There is a single pond shown on Ordnance Survey maps within 500m of the application site. This is Kidmore End Pond located approximately 175m north of the site, at the intersection of Chalkhouse Green Road and Kidmore Lane. A Habitat Suitability Index (HSI) assessment of this pond was undertaken². This showed that the pond had an HSI score of 0.57 or below average³. The calculation is given in Appendix 3.
- 4.14 Natural England’s risk assessment, as given in their great crested newt licence method statement template, states that in the absence of avoidance measures there is an “amber” risk of an offence under the 2017 Habitat Regulations (see Table 2). However, the associated guidance reads:
- “Amber: offence ‘likely’ indicates that the development activities are of such a type, scale and location that an offence is likely. [...] Bear in mind that this generic risk assessment will over- or under-estimate some risks because it cannot take into account site-specific details, as mentioned in caveats above. In particular, the exact location of the development in relation to resting places, dispersal areas and barriers should be critically examined.”*
- 4.15 As such, in view of the following site-specific factors, it is considered unlikely that great crested newts will be affected by the proposals:
- Habitats on site: The development site has been cleared of vegetation and is now bare ground. As such there is now very little cover or resting places for great crested newts.
 - Barriers: The application site is separated from Kidmore End Pond by Chalkhouse Green Road, a primary school - comprising mostly buildings and hardstanding, a public house – also predominantly buildings and hardstanding, and, a several residential properties with small associated gardens. It is highly likely these habitats will represent a significant barrier to the movement of newts between the pond and the application site.
 - The HSI score of Kidmore End pond is “below average” (see section 4,13) and there are very few ponds elsewhere.

² Habitat Suitability Index (HSI) scoring systems were originally developed by the US Fish and Wildlife Service as a means of evaluating habitat quality and quantity for fish. In the UK a HSI for GCN has been developed [Oldham R.S., Keeble J., Swan M.J.S. & Jeffcote M. (2000). Evaluating the suitability of habitat for the Great Crested Newt (*Triturus cristatus*). *Herpetological Journal* 10 (4), 143-155]. The HSI incorporates ten suitability indices, such as waterbody area, water quality, presence of fish, presence of waterfowl etc. These are multiplied to give a score of between 0 and 1. The higher the score the more likely a pond is to host GCN.

³ A study of 248 ponds in southern England found that only 20% of ponds with a HSI score of “below average” hosted GCN

- The mound of spoil that was in the centre of the site at the time of the survey has since been removed.

4.16 In the unlikely event that great crested newts are found works will stop until the requisite licence has been obtained from Natural England for the works.

Table 2 – Risk assessment for great crested newts as per Natural England’s Great Crested Newt method statement in the event that Kidmore End Pond, approximately 175m from the application site were to be a great crested newt breeding pond.

Component	Likely effect	Notional offence probability score
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	No effect	0
Land 100-250m from any breeding pond(s)	0.5 - 1ha lost or damaged	0.3
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	No effect	0
Maximum:		0.3
Rapid risk assessment result:	AMBER: OFFENCE LIKELY	

Other protected species

4.17 It is considered highly unlikely that the proposals will have any adverse impact upon protected species, such as badgers, bats, dormouse or reptiles because:

- (1) The areas of the site to be affected by the proposals, all of which has been cleared of vegetation, are unsuitable or sub-optimal for use by these species.
- (2) No trees or structures will be affected by the proposed works.
- (3) No signs of badgers were observed on or adjacent to the site during the survey.

4.18 It will however, be important to ensure that the new lighting scheme be designed in such a way that large areas of the site, including the broadleaved woodland at the edges of the site, are not illuminated (this includes light spillage from inside the garage and external lighting) as this could result in the disruption of bat commuting and foraging routes.

4.19 At the far south west of the survey site there are a number of mammal holes, which are most likely rabbit burrows. However, since badgers can open up new setts overnight (or, enlarge existing rabbit burrows) a precautionary pre-commencement badger sett survey should be carried out within three months of the start of works. If the survey shows that a badger sett is present (and this will be affected by the proposals) it may need to be closed under licence to Natural England.

4.20 Appendix 4 gives further information on badgers and their ecology and legal status.

Nesting birds

4.21 All wild birds are protected under the Wildlife and Countryside Act 1981 (as amended). Section 1 of this Act makes it an offence to kill, injure or take any wild bird, or intentionally to take, damage or destroy the nest of any wild bird while that nest is in use or being built.

4.22 The remaining trees and scrub, along the site boundaries, are likely to be used by nesting birds. As such, if any further vegetation removal needs to occur this should be undertaken outside of the bird

nesting season (March – August inclusive depending on weather conditions). If this is not practicable then areas to be cleared will first need to be checked by a suitably qualified ecologist for nesting birds and, if any nests are found, works that would disturb the nest must be postponed until all young have fledged the nest and it is no longer in use.

Landscaping and ecological enhancements

4.23 In accordance with paragraph 175 of the NPPF, which states that “*opportunities to incorporate biodiversity in and around developments should be encouraged*” it is recommended that

- New planting comprises predominantly native and wildlife-friendly species.
- New fences include gaps at the bases to allow hedgehogs and other mammals to pass through the site (the fragmentation of blocks of land as a result of new housing is thought to be one of the main reasons behind a recent decline in hedgehog numbers),
- Ecological enhancements such as bird and bat boxes, bricks or tiles are provided on and around the new houses.

5.0 Summary

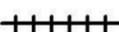
- 5.1 The survey site comprises a block of recently cleared land surrounded by young broadleaved woodland, of which only a small portion of the cleared land will be developed.
- 5.2 As the site has already been cleared the proposals are unlikely to adversely affect any protected species, but in order to minimise the risk of harm to badgers a pre-commencement badger sett survey should be undertaken.
- 5.3 In accordance with paragraph 175 of the NPPF it is recommended that:
 - (1) New planting comprises predominantly native and wildlife-friendly species.
 - (2) New fences include gaps at the bases to allow hedgehogs and other mammals to pass through the site
 - (3) Ecological enhancements such as bird and bat boxes, bricks or tiles are provided on and around the new houses.

Appendix 1 - Extended Phase 1 Habitat Map and Target Notes

Target notes

- 1) Bare ground where it had been recently cleared of vegetation. At the peripheries, particularly to the north, there were some scattered nettle, bramble and snowdrop.
- 2) The eastern boundary of the survey site (east of the site of the development site) comprises a band of young woodland/scrub. Species include cherry, blackthorn, hawthorn, ash, oak. The trees and shrubs have a height of up to 8m and a diameter at breast height (DBH) of 10 to 40cm. The ground flora includes snowdrop, lord and ladies, nettle and cleavers.
- 3) The southern boundary, adjacent to the woodland is predominantly tall hawthorn scrub with a height of up to 6m and a DBH of approximately 10cm. There was very little ground flora
- 4) The western boundary of the survey site (east of the site of the development site) includes some more mature trees, predominantly oak, with occasional hawthorn between them. Ground flora appeared to be predominantly nettle
- 5) Rabbit burrow
- 6) Rabbit burrow



- Key**
-  Application site boundary
 -  Target Note
 -  Broadleaved woodland - semi-natural
 -  Tall ruderal herb
 -  Bare ground
 -  Fence



Produced using BosqMap Software
www.bosqmap.co.uk

ECO2537

Coopers Pightle

Results* of Extended
Phase 1 Habitat Survey

Not to scale

REV 01

Tiles © Esri - Source: Tiles © Esri - Source: Esri, i-cubed, USDA, USGS, AEX, GeoEye, Getmapping, Aerogrid, IGN, IGP, UPR-EGP, and the GIS User Community

*Habitats areas are indicative only

Appendix 2 –Photographs

Photos 1 and 2 – Bare ground in the centre of the survey site (it is our understanding that the mound has since been removed).



Photo 3 – The woodland along the eastern site boundary (unaffected by the proposals)



Photo 4 – Scrub/young trees along the north eastern boundary of the survey site (unaffected by the proposals)



Photo 5 - The woodland along the western boundary of the survey site (unaffected by the proposals)



Appendix 3 – Great Crested Newt Habitat Suitability Index Appraisal for Chalkhouse Pond

<p>Factor 1. Geographic location (SI1) 1</p> <p>Zone A, location is optimal, SI = 1</p> <p>Zone B, location is marginal, SI = 0.5</p> <p>Zone C, location is unsuitable, SI = 0.01.</p>	<p>Factor 6. Waterfowl 0.67</p> <p>Absent - No evidence of waterfowl impact (moorhens may be present) - 1 Minor - waterfowl present, but little indication of impact on pond vegetation. Pond still supports submerged plants and banks are not denuded of vegetation - 0.67 Major - severe impact of waterfowl. Little or no evidence of submerged plants, water turbid, pond banks showing patches where vegetation removed, evidence of provisioning waterfowl - 0.01</p>
<p>Factor 2. Pond area 0.16</p> <p style="text-align: right;">Enter value in M2: 80</p>	<p>Factor 7. Fish 0.33</p> <p>Absent - no records of fish stocking and no fish revealed by netting or observed by torchlight - 1 Possible - no evidence of fish, but local conditions suggest that they may be present. - 0.67 Minor - small numbers of crucian carp, goldfish or stickleback known to be present - 0.33 Major - dense populations of fish known to be present - 0.01</p>
<p>Factor 3. Permanence 1</p> <p>Never dries = 0.9 Rarely dries (dries no more than two years in ten or only in drought) = 1.0 Sometimes dries (dries between three years in ten to most years) = 0.5 Dries annually - 0.1</p>	<p>Factor 8. Pond count 0.6</p> <p>Enter the number of ponds within 1km of site from OS maps here, exclude those behind major barriers 2</p>
<p>Factor 4. Water quality 0.67</p> <p>Good - Water supports an abundant and diverse invertebrate community. Netting reveals handfuls of diverse invertebrates, including groups such as mayfly larvae and water shrimps - 1.0 Moderate - moderate invertebrate diversity - 0.67 Poor - low invertebrate diversity (e.g. species such as midge and mosquito larvae). Few submerged plants. - 0.33 Bad - clearly polluted, only pollution-tolerant invertebrates (such as rat-tailed maggots), no submerged plants - 0.01</p>	<p>Factor 9. Terrestrial habitat 0.67</p> <p>Good - habitat that offers good opportunities for foraging and shelter (e.g. most semi-natural environments, such as rough grassland, scrub or woodland, also brownfield sites and low intensity farmland) covers more than 75% of available area - 1 Moderate habitat offers opportunities for foraging and shelter but may not be extensive (25-75%) of available area - 0.67 Poor - habitat with poor structure (e.g. amenity grassland, improved pasture and arable) that offers limited opportunities (less than 25% of available area) for foraging and shelter - 0.33 None - no suitable habitat around pond (e.g. centre of arable field or large expanse of bare habitat) = 0.01</p>

<u>Factor 5. Shade</u>	1	<u>Factor 10. Macrophytes</u>	0.35
Estimate percentage pond perimeter shaded, to at least 1m from the shore. Shading is usually from trees, but can include buildings. Shading should not include emergent pond vegetation. The estimate should be made during the period from May to the end of September.	10	Estimate the percentage of the pond surface area occupied by macrophyte cover. This includes emergents, floating plants (excluding duckweed) and submerged plants reaching the surface. Make an estimate between March and the end of September. Read off the SI value from graph	5

HSI Score = 0.57
HSI Index = Below average

Appendix 3 – Legislation and planning policy

Planning Authorities have a legal duty to consider biodiversity when assessing planning applications. Where there is a reasonable likelihood that a planning application might affect important protected sites, species or habitats, information on the species, habitat or site likely to be affected, together with an assessment of the impacts of the proposals, will almost certainly be required.

The legal duty for Planning Authorities to have regard to the conservation of biodiversity was introduced in the 2006 Natural Environment and Rural Communities Act (The NERC Act). This act clarified existing commitments with regard to biodiversity, raised the profile of biodiversity and aimed to make the consideration of biodiversity a natural and integral part of policy and decision making.

In addition to the NERC Act there is also national and international biodiversity legislation. This includes legislation in relation to protected species and sites which operates outside of the planning system. Local Authorities and developers have a duty to comply with this legislation.

National planning policy

Paragraph 99 of the Government Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System (this document has not been revoked by the recently published National Planning Policy Framework) states that:

'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.'

As such, in line with national planning policy, most planning authorities will ask for this information to be provided before a planning decision is made and in many cases before it is registered.

Local planning policy

In addition to national planning policy, most councils have planning policies to protect biodiversity, and to enhance it where practicable within and adjacent to development sites.

European protected species

The United Kingdom hosts a number of European Protected Species (EPS) of animals (table 1) and plants (table 2). These species receive special protection under UK law and it is an offence under the Wildlife and Countryside Act 1981 (as amended) and the European Habitats and Species Directive (92/43/EC), enacted in the UK through The Conservation of Habitats and Species Regulations 2010, to deliberately or recklessly destroy or damage their habitat, or to disturb, kill or injure the species without first having obtained the relevant licence from Natural England.

Planning Authorities have a statutory duty under these regulations to have regard to the requirements of the Habitats Directive and need to be satisfied that the development is likely to receive a licence from Natural England, and therefore comply with the Habitats Directive, before granting planning permission.

Table 1 – European Protected Species of Animal found in the UK

Common name	Scientific name
Bats, Horseshoe (all species)	<i>Rhinolophidae</i>
Bats, Typical (all species)	<i>Vespertilionidae</i>
Butterfly, Large Blue	<i>MACULinea arion</i>
Cat, Wild	<i>Felis silvestris</i>
Dolphins, porpoises and whales (all species)	<i>Cetacea</i>
Dormouse	<i>MUScardinus avellANARIUS</i>
Frog, Pool	<i>Rana lessonae</i>
Lizard, Sand	<i>Lacerta agilis</i>
Moth, Fisher's Estuarine	<i>Gortyna borelii lunata</i>
Newt, Great Crested (or Warty)	<i>TritURUS cristatus</i>
Otter, Common	<i>LUTRA lUtra</i>
Snail, Lesser Whirlpool Ram's-horn	<i>Anisus vorticULUS</i>
Snake, Smooth	<i>Coronella AUStriaca</i>
Sturgeon	<i>Acipenser stURIO</i>
Toad, Natterjack	<i>BUFo calamita</i>
Turtles, Marine	<i>Caretta caretta</i> <i>Chelonia mydas</i> <i>Lepidochelys kempii</i> <i>Eretmochelys imbricata</i> <i>Derموchelys coriacea</i>

Table 2 – European Protected Species of Plant found in the UK

Common name	Scientific name
Dock, Shore	<i>RUMEX RUPEstris</i>
Fern, Killarney	<i>Trichomanes speciosUM</i>
Gentian, Early	<i>Gentianella anglica</i>
Lady's-slipper	<i>Cypripedium calceolus</i>
Marshwort, Creeping	<i>ApiUM repens</i>
Naiad, Slender	<i>Najas flexilis</i>
Orchid, Fen	<i>Liparis loeselii</i>
Plantain, Floating-leaved water	<i>LURONIUM natans</i>
Saxifrage, Yellow Marsh	<i>Saxifraga hirculus</i>

Nationally protected species

Many species of animal are protected under the 1981 Wildlife and Countryside Act (as amended). 'Full protection' applies to EPS and some non-EPS species such as the water vole. This prohibits the intentional killing, injuring or taking (capture, etc); possession; intentional disturbance whilst occupying a 'place used for shelter or protection' and destruction of these places; sale, barter, exchange, transporting for sale and advertising to sell or to buy. Many species, such as common species of reptile and amphibian, are protected from intentional killing and injuring and trading.

Birds

All wild birds are protected under the Wildlife and Countryside Act 1981 (as amended), whilst they are actively nesting or roosting. Section 1 of this Act makes it an offence to kill, injure or take any wild bird, and to intentionally take, damage or destroy the nest of any wild bird while that nest is in use or being built. It is also an offence to take or destroy any wild bird eggs.

In addition, bird species listed under Schedule 1 of the Act receive extra protection. The Act states that 'it is an offence to intentionally or recklessly disturb any wild bird listed in Schedule 1 while it is nest building, or at (or near) a nest containing eggs or young, or disturb the dependent young of such a bird'.

In practice this means that in areas where birds are likely to be nesting works should not be undertaken during the nesting season, which is generally considered to be March to September, although this very much depends on weather conditions, habitats and the species involved. If works cannot be avoided then areas should first be checked for nesting birds. Habitats likely to host nesting birds include trees, hedgerows and dense scrub, buildings, reedbeds and riverine habitats and open areas with tussocky vegetation.

Appendix 4 – Badgers

Badger ecology

The European Badger (*Meles meles*) is one of Britain's most well loved and charismatic mammals. They can grow to a metre in length and weigh up to 14 kilos. They are Britain's largest meat eating mammal, having a diverse omnivorous diet consisting of a wide variety of foodstuffs from fruit and cereals to small mammals and invertebrates, though the mainstay of their diet is earthworms and insect larvae.

Badgers belong to the *Mustelidae* family and close relatives include otters, mink, weasels and stoats. They are found throughout Britain and historically have been persecuted by badger baiters and diggers, which is unfortunately still the case.

Badgers are creatures of habit, with most living in a social group (or family) occupying a distinct territory. Social groups are normally around 5 or 6 adults in size; however groups of more than 20 animals have been recorded, and in areas where badger numbers are low, pairs of animals or single individuals may be encountered.

Badgers are territorial and a social group's territory is normally well defined and demarcated by dung pits. Territory size depends on habitat quality and ranges from 25 – 150 hectares, with a typical territory being around 60 hectares.

Badger cubs are born between December and July; the majority in March and April. Most social groups produce one litter per year although larger groups may produce more. Normally 3-4 young are born per litter with around 40% surviving to adulthood.

Badgers sleep and rear their young in underground complexes known as setts. Setts may be used for decades and the large piles of excavated earth and soil can significantly alter the local landscape. Sett entrance holes are approximately 25CM in diameter and can be mistaken for holes used by rabbits or foxes; indeed badgers will sometimes co-habit with other species. Each sett comprises tunnels and chambers and can have several entrance holes. Badger setts can extend to 20m from the entrance holes and several metres underground.

Social groups have a number of setts throughout their territory with each sett performing a different function. They can be classified as follows:

- **Main setts:** These are continuously used, well established and often have extensive piles of spoil at their entrance. There is usually only one main sett per social group, which tends to be located close to the centre of the group's territory and is likely to have well-worn paths leading to it. The number of entrance holes can vary between 3 and 180, however a typical main sett has between 7 and 20 entrance holes. The majority of cubs are born in the main sett.
- **Annexe setts:** These are usually located within 150m of the main sett and linked by well used paths. They consist of several holes, but are not necessarily in use all the time. Cubs are sometimes born and raised in these setts.
- **Subsidiary setts:** These usually have more than three holes, are usually at least 50m from a main sett, and do not have an obvious path connecting them with another sett. They are not continuously active but are often well used.

- **Outlier setts:** These usually only have one or two holes, have no obvious path connecting them with another sett, and are not usually in constant use.

The degree of usage of an entrance hole varies, but the following classification has been used in this report:

- **Well used holes:** clear evidence of regular use such as bedding material, recent excavations and/or fresh footprints
- **Partially used hole:** these holes are not in regular use and usually have some debris such as twigs or leaves in the entrance.
- **Disused holes:** these holes will not have been used for sometime, and possibly have collapsed entrances with significant amounts of debris covering the hole.

For badgers, with their powerful claws and legs for digging and moving earth, opening up new setts and maintaining and extending old setts is a constant occupation, with bursts activity at certain times of the year. Although the pattern of sett use by badgers usually remains constant it can also change: either slowly, over a period of years, or suddenly, in response to changes in the environment such as drought or flood, in which situation new setts can be opened up relatively quickly (sometimes in a matter of days).

Legislation

The legislation relating to the protection of badgers is mainly contained within the Protection of Badgers Act 1992 ('The Act'), with some protection also given under the 1981 Wildlife and Countryside Act [as amended]. The Act fully protects badgers and their setts and makes it an offence to kill, injure or take a badger, to cruelly ill-treat a badger or to interfere with a badger sett (defined "any structure or place that displays signs indicating current use by a badger."). Under The Act Natural England has the authority to issue licences to interfere with badger setts for the following purposes:

- For development purposes;
- To prevent serious damage to land, crops, poultry or any other form of property (e.g. house, garden, road etc);
- Any agricultural or forestry operation;
- Any operation to maintain or improve any existing watercourse or drainage works, or to construct new works required for the drainage of land, including works of defence against sea or tidal water;
- To prevent the spread of disease.

Licences will only be issued where it is demonstrated that all three of the following tests are met:

- A licence is required (e.g. the badgers or their setts subject to the application are causing or are likely to cause a serious problem or are preventing legitimate operations);
- There is no alternative to issuing a licence (e.g. other methods of managing the problem or carrying out the operation have been shown to be ineffective or impractical and not just difficult to implement)

- The activity to be licensed is likely to resolve or to contribute to resolving the matter for which it has been issued.

Sett closures

Under certain circumstances badger setts may be excluded and destroyed under licence from Natural England as long as certain tests are met (see above). Sett closure involves fitting one-way gates over entrance holes with galvanised wire pinned to the ground around the gate, sometimes backed up by electric fencing to stop animals entering the exclusion area. Once fitted the gate is left open to allow animals to become accustomed to it and then closed so that animals can leave but not-re-enter the sett. After a period of no activity (usually 3 weeks) the setts are filled in and the sett can be considered closed. Sett closures can only be carried out between 1 July and 1 December, and a period of 6 weeks (to allow for any unforeseen circumstances) should be set aside for sett exclusion. In certain circumstances (where a main, annexe or subsidiary sett is being closed) it may be necessary to provide an artificial sett prior to the sett exclusion.

Appendix 4 - About GS Ecology

Established in 2009, GS Ecology is an independent ecological consultancy in Berkshire. We carry-out surveys and ecological consultancy services for public and private sector clients including in Berkshire, Oxfordshire and Hampshire, London and the south of England. We can advise you on cost effective sustainable solutions for your project, whether it be a bat survey to inform a planning application, the ecology chapter of an Environmental Statement or a Woodland Management Plan.

Our work is undertaken by experienced and qualified ecologists, who are members of the Chartered Institute of Ecology and Environmental Managers. Our services include:

- Ecology surveying and reporting to inform planning applications, e.g.
 - Preliminary Ecological Appraisal
 - Extended Phase 1 Habitat Survey
 - Protected species surveys, e.g. badgers, dormouse, great crested newts
 - Bat surveys in Oxfordshire, Berkshire, Hampshire, London and Southern England
- BREEAM ecology assessments – to demonstrate the sustainability of a new building
- Protected species licensing such as bat and great crested newt licences for development sites after planning permission has been obtained
- Providing advice to land managers and writing ecological management plans, such as woodland management plans and farm environmental plans for England woodland Grant Scheme and Environmental Stewardship applications
- Providing ecology advice to Local Authorities and Local Planning Authorities

Ordnance Survey County Edition 1910 – 12 Series Scale: 1:10,560. Shows that there was no woodland on site CFS10 and no possibility of it being an extension of Long Copse.



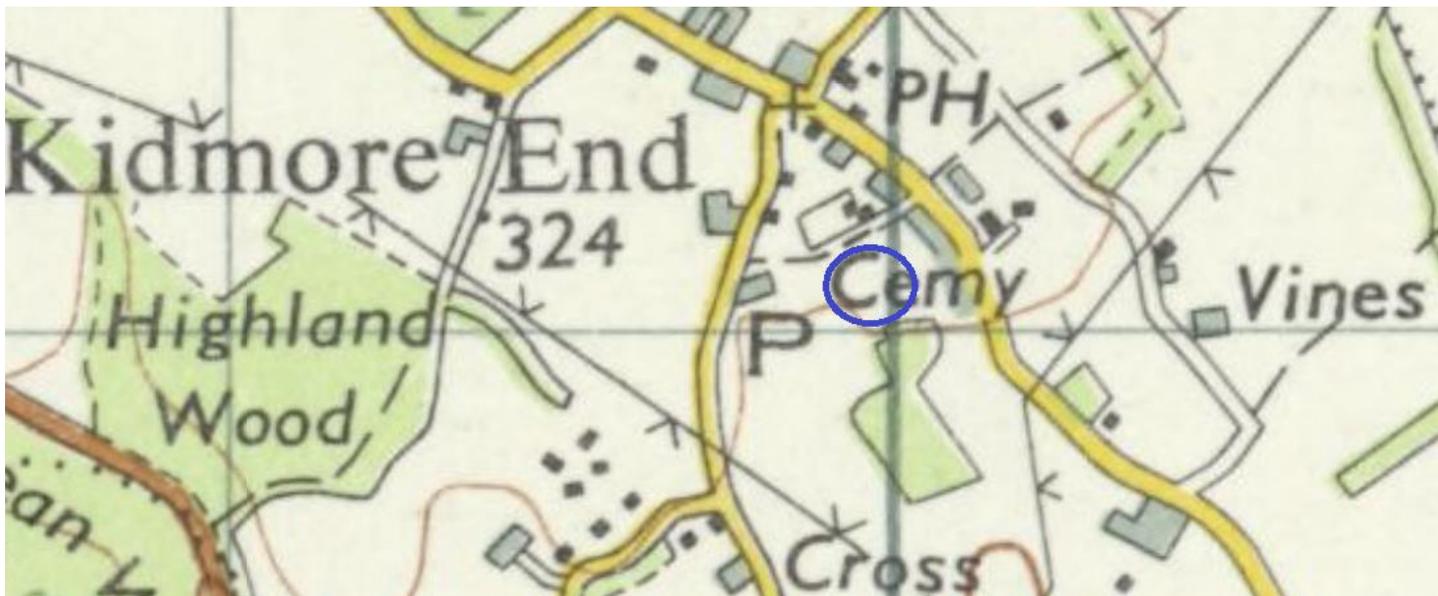
O.S. map Sheet 268 – Kidmore End village 1896. NO WOODLAND.



O.S. map Kidmore End village. County Edition 1910 – 12. NO WOODLAND.



O.S. map Kidmore End village 1 mile:1 inch 1947. NO WOODLAND.



O.S. map Kidmore End village 1 mile: 1 inch 1961. NO WOODLAND.



O.S. map #GetOutside January 2021. W1 WOODLAND-TPO.

Blue line indicates approx. site of CFS10 development.

Kidmore End NDP response to name redacted 23.7.2020

From Sue Biggs <sue.biggs@kepc.info>

Cc clerk@kepc.info, caroline.aldridge@kepc.info

Thu 23/07/2020 17:18

Thank you for your comments.

We held 2 public consultation events in September 2019 and an online survey relating to the consultation. To enable those who had not been able to attend the events the consultation boards were and are available online and the online survey was open for a number of weeks.

Additional comments will be carefully considered and will be taken on board.

The neighbourhood plan process ensures that the wider community, the whole parish shapes the preparation of the neighbourhood plan. The local community will be formally consulted on the draft proposals in the emerging neighbourhood plan before the plan is submitted to the district council.

If any party feels their concerns have not been addressed throughout the preparation of the plan, they will have an opportunity to raise their concerns again before the plan is independently examined. Ultimately, parishioners will have the final say, through a local referendum, on whether the plan should be used to help make planning decisions for the parish of Kidmore End.

Kind regards

Sue Biggs

Tree Preservation Order

Town and Country Planning Act 1990

Reference Number: 18S10

The South Oxfordshire District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order

Citation

1. This Order may be cited as 18S10

Interpretation

- 2.—(1) In this Order “the authority” means the South Oxfordshire District Council
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

- 3.—(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this twelfth day of December 2018

Signed on behalf of the South Oxfordshire District Council



.....
Authorised by the Council to sign in that behalf

SCHEDULE

Specification of trees

Trees specified individually
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Ash	Located at the eastern end of the public right of way situated at the eastern end of Coopers Pightle, Kidmore End, READING, RG4 9AZ, as shown on the accompanying plan at grid reference: SU 6987 7913
T2	Ash	Located at the eastern end of the public right of way situated at the eastern end of Coopers Pightle, Kidmore End, READING, RG4 9AZ, as shown on the accompanying plan at grid reference: SU 6989 7913
T3	Beech	Located at the eastern end of the public right of way situated at the eastern end of Coopers Pightle, Kidmore End, READING, RG4 9AZ, as shown on the accompanying plan at grid reference: SU 6989 7914
T4	Oak	Located due south of the eastern section of the public right of way situated at the eastern end of Coopers Pightle, Kidmore End, READING, RG4 9AZ, as shown on the accompanying plan at grid reference: SU 6989 7912
T5	Hornbeam	Located mid-way along the public right of way situated at the eastern end of Coopers Pightle, Kidmore End, READING, RG4 9AZ, as shown on the accompanying plan at grid reference: SU 6992 7915

T6	Beech	Located mid-way along the public right of way situated at the eastern end of Coopers Pightle, Kidmore End, READING, RG4 9AZ, as shown on the accompanying plan at grid reference: SU 6992 7915
T7	Beech	Located mid-way along the public right of way situated at the eastern end of Coopers Pightle, Kidmore End, READING, RG4 9AZ, as shown on the accompanying plan at grid reference: SU 6992 7915
T8	Horse Chestnut	Located at the western end of the public right of way situated at the eastern end of Coopers Pightle, Kidmore End, READING, RG4 9AZ, as shown on the accompanying plan at grid reference: SU 6993 7916
T9	Oak	Located in the southern central parcel of land situated at the western end of Coopers Pightle, Kidmore End, READING RG4 9AZ, as shown on the accompanying plan at grid reference: SU 6999 7906

Trees specified by reference to an area
(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
<i>None</i>		

Groups of trees
(within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
<i>None</i>		

Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Mixed species woodland.	Located around the perimeter of a parcel of land situated at the western end of Coopers Pightle, Kidmore End, READING, RG4 9AZ, extending due south adjacent to properties backing on to the land from Chalkhouse Green Road, as shown on the accompanying plan at grid reference: SU 6995 7904

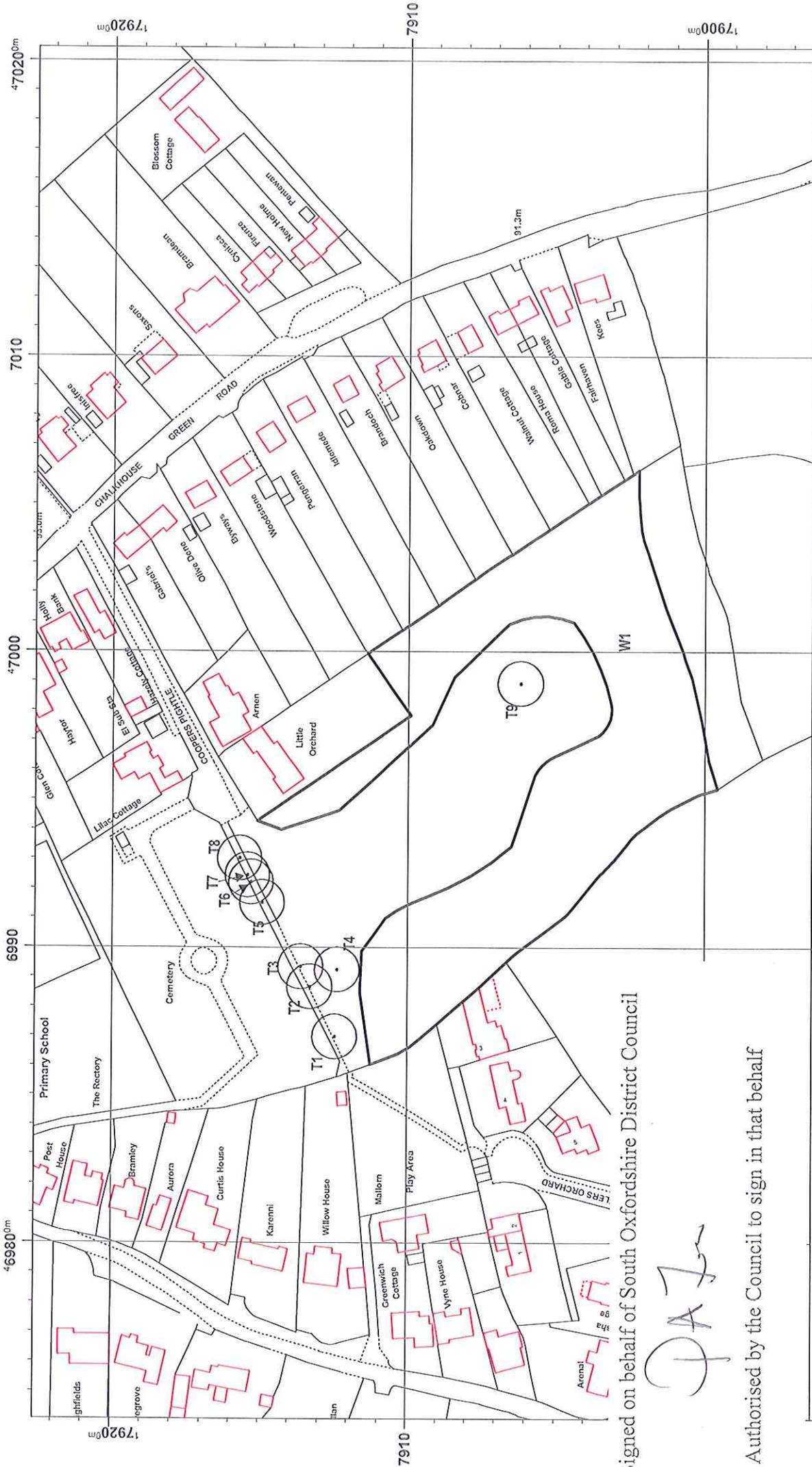
CONFIRMATION OF ORDER

This Order was confirmed by the South Oxfordshire District Council subject to the modifications indicated by modifying from an area order to cover 1 woodland and 9 trees, on the twelfth day of December 2018.

Signed on behalf of the South Oxfordshire District Council



.....
Authorised by the Council to sign in that behalf

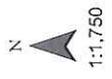


signed on behalf of South Oxfordshire District Council

PAZ

Authorised by the Council to sign in that behalf

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1:1,750

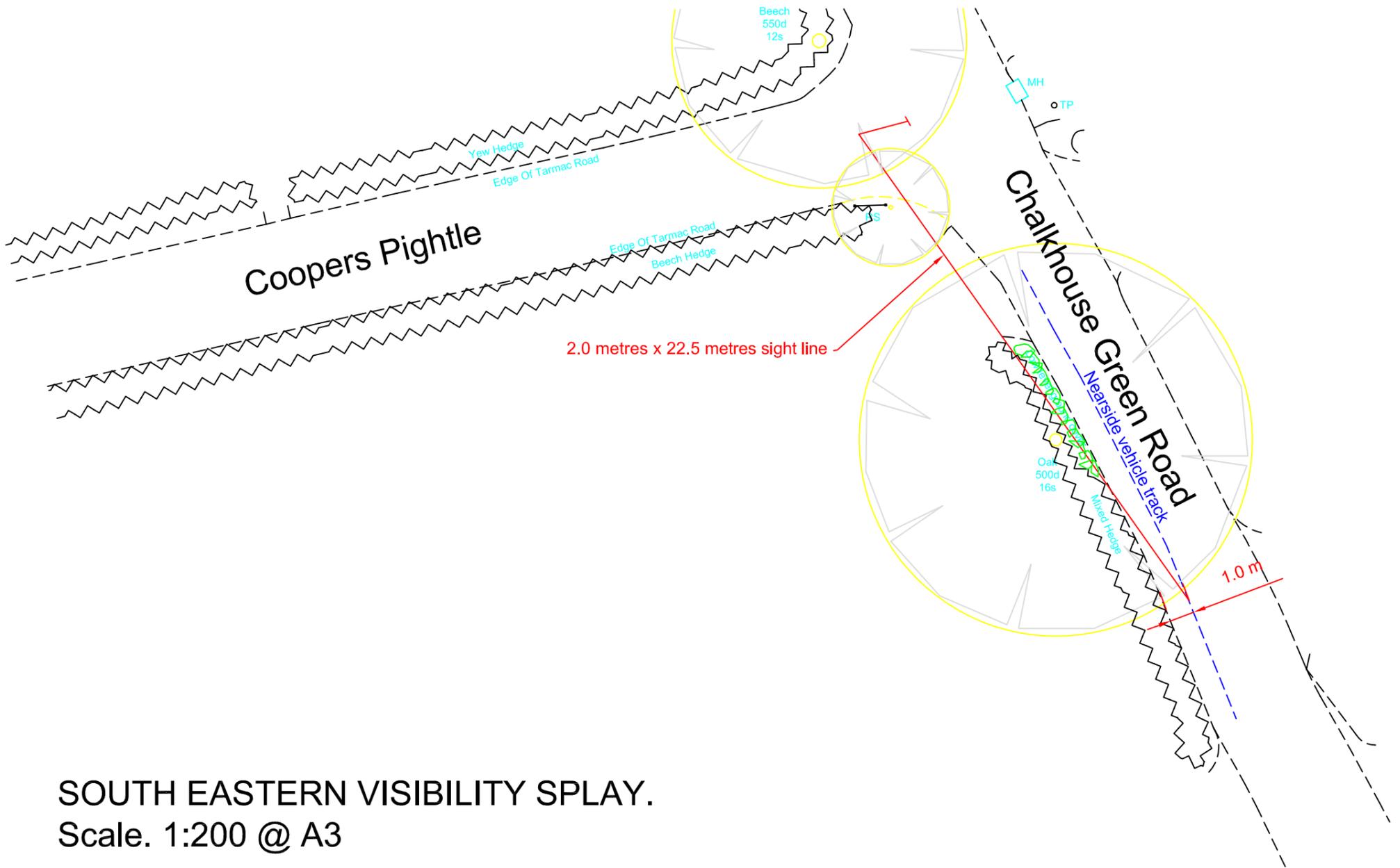


Listening. Learning. Leading

South Oxfordshire District Council
Kidmore End Area

Tree Preservation Order No.10/2018

CHALKHOUSE GREEN / COOPERS PIGHTLE JUNCTION, KIDMORE END, OXON.



SOUTH EASTERN VISIBILITY SPLAY.
Scale. 1:200 @ A3



VISIBILITY SOUTH EASTWARDS FROM 2.0 METRES BACK IN
COOPERS PIGHTLE.

CHALKHOUSE GREEN / COOPERS PIGHTLE JUNCTION, KIDMORE
END, OXON.



Photograph 1. Northbound driver's view from a point 25 metres south of the centre of the Coopers Pightle/Chalkhouse Green Road junction.



Photograph 2. Northbound vehicle approaching at a point 25 metres south of Coopers Pightle/Chalkhouse Green Junction.

Access and Parking:

The Highway Liaison Officer has commented as follows in the light of the SOCS Policy CSM1 and the SOLP 2011 Policies D2, T1 & T2.

“After reviewing the supplied plans/documentation the Highway Authority has the following comments, as submitted the Highway Authority is likely to recommend Refusal to the proposal due to the following:

- The 'red-line' area does not abut the Highway and travels across third party land which is not within the control of the applicant or the Highway Authority therefore access rights will need to be granted.
- The 2.0m setback distance when looking towards the righthand side on egress is likely to cross the neighbouring boundary of 'Gabriel's'.
- In addition a 2.0m setback is used in very lightly trafficked locations, the Highway Authority considers a 2.4m setback more appropriate in this location however this does not provide suitable visibility splays in accordance with standards. You may wish to seek specific advice concerning these matters from the Highway Liaison Officer, thomas.cockhill@oxfordshire.gov.uk, however, any advice is provided on a discretionary basis.