

Birchington Neighbourhood Plan 2021-2031

Submission Version Examination Report

A Report to Thanet District Council into the Birchington
Neighbourhood Plan

By Independent Examiner, Jeremy Edge BSc (Hons) FRICS MRTPI

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Introduction and Role of the Independent Examiner

- 1.1 Neighbourhood Planning introduced by the Localism Act 2011 provides communities with the power to establish the priorities and policies to shape the future development of their local areas. This Examination Report sets out the findings of the independent examination of the Birchington Neighbourhood Plan 2021-2031 - Submission version, approved by Birchington Parish Council on 30 November 2021.
- 1.2 My role as an Independent Examiner, when considering the content of a neighbourhood plan is limited to testing whether a draft neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The role is not to test the soundness of a neighbourhood development plan, or to examine other considerations.
- 1.3 Paragraph 8 of Schedule 4B (2) to the Town & Country Planning Act 1990 (as amended), states that the Plan must meet the following “basic conditions”:
 - it must have appropriate regard for national policy;
 - it must contribute towards the achievement of sustainable development;
 - it must be in general conformity with the strategic policies of the development plan for the local area;
 - it must be compatible with human rights requirements and
 - it must be compatible with EU obligations.
- 1.4 In addition, there are a number of legal requirements that need to be complied with in the preparation of the Plan. These requirements are set down in primary legislation and the Neighbourhood Plan Regulations and are referred to below in this examination report.
- 1.5 In accordance with Schedule 4B, section 10 of the Town & Country Planning Act 1990 (as amended), the examiner must make a report on the draft plan containing recommendations and make one of the following three recommendations:
 - (a) that the draft order is submitted to a referendum, or
 - (b) that modifications specified in the report are made to the draft order and that the draft order as modified is submitted to a referendum, or
 - (c) that the proposal for the order is refused.
- 1.6 If recommending that the Plan proceeds to a referendum, I am also then required to consider whether the Referendum Area should extend beyond the Birchington Neighbourhood Plan (BNP) designated area to which the Plan relates. I make my recommendations at the end of this Report.

- 1.7** I am independent of the qualifying body, associated residents, business leaders and the local authority. I do not have any interest in any land that may be affected by the Plan, and I possess appropriate qualifications and experience.
- 1.8** I was appointed to undertake the independent examination of the Submission Version of the BNP on 9th June 2022 by Thanet District Council (TDC).

1.9 Birchington – Background

- 1.10** Birchington-on-Sea comprises a large village situated in north-east Kent on the coast between the seaside resorts of Herne Bay and Margate. It is located within Thanet District and forms part of the civil parish of Birchington. The settlement has developed as a seaside and retirement destination with a population of approximately 10,300 in 2019 with 40% over the age of 60.
- 1.11** The neighbourhood plan explains that the area was settled in the Iron Age at Minnis Bay and that the village's All Saints' Church dates from around 1100. The Plan further notes that properties dating from the 15th century comprising the historic core of the village around The Square, Canterbury Road and Minnis Road can be found.
- 1.12** Birchington remained a farming community through the sixteenth to the mid nineteenth century when the settlement began to develop as a coastal resort, facilitated by the advent of the railway from 1863. This provided rapid access to and from London for day-trippers and holidaymakers to visit Birchington and encouraged demand for more extensive residential use in common with other north Kent seaside resorts such as Herne Bay, Margate, Broadstairs and Ramsgate. This opened the area to newcomers, offering the opportunity for commuting as well as broadening the use of housing as second and holiday homes.
- 1.13** Currently a high-speed rail service links Birchington to London St Pancras International, via Faversham and High Speed 1, with a slower service to London Victoria. The village is also served by Stagecoach South-East buses which run to Westgate-on-Sea, Margate, Ramsgate, Broadstairs and Canterbury. Local bus services run to Herne Bay. National Express coaches to and from London also call in the village.
- 1.14** The parish contains over 14km of public rights of way, including the newly designated England Coast Path (a National Trail) and the Viking Coast Trail, which is part of the national cycle network.
- 1.15** Agricultural land use frames the landscape to the south and west of the village.
- 1.16** The centre of Birchington located along Canterbury Road and Station Road provides most of the retail and community, social and civic facilities, Station Road being Birchington's main shopping street.

- 1.17 King Ethelbert Secondary School is located to the eastern edge of the village and to the south is Birchington Primary School.
- 1.18 Quex House, located in Quex Park, is a 200-year-old Grade II listed manor house containing the Powell-Cotton Museum. This museum houses three unique galleries of stuffed animal displays, depicting more than 500 African and Asian animals in their natural habitats. Quex Park contains other listed buildings and features, as well as parkland, gardens, a campsite, caravan site, garden centre, cafes, craft outlets and outdoor leisure facilities.
- 1.19 The village has retained its community identity and distinctive character over the years. Residential typologies include bungalows, detached, semi-detached, terraced houses and apartment blocks, although the prevailing form comprises bungalows, which the Plan explains were the first to be built in Britain. Most bungalow developments took place in the second half of the twentieth century offering variety in style, plot size and the degree to which they have been converted with upward extension into the roof space.
- 1.20 The historic core of the village was designated as a Conservation Area in 1976.
- 1.21 The Canterbury to Margate highway (A28), passes through The Square in the centre of the village and links to the A299 to the west, to London and the Dartford Crossing via the M2/M25. The growth of the village and nearby settlements has put significant pressure on the road network, especially the A28 and the country roads to the south of the village.
- 1.22 The Plan highlights the provision of community facilities, both indoor and outdoor, together with green spaces and recreational facilities, which are well used throughout the village. It recognises the importance of retail and other businesses in the commercial centre of the village and more widely which provide essential services, particularly for people who are less mobile or unable to travel to other settlements within and beyond the Isle of Thanet. Together, these play a crucial role in sustaining the character and sense of community that exists in Birchington.

Birchington Neighbourhood Plan 2021-2031 - Plan Preparation and Consultation

- 2.1 The Consultation Statement confirms that Birchington Parish Council resolved to promote the BNP at the General Purposes Committee on 8 November 2016. The Parish Council wrote to TDC on 5th December 2016, seeking designation of the proposed neighbourhood area. This extended to the entire administrative boundary of the parish. TDC confirmed the designation on 8th December 2016. A copy of the designated neighbourhood area is shown below.



- 2.2 The Consultation Statement (CS) explains the statutory requirements set out in the Neighbourhood Development Planning (General) Regulations 2012 (Localism Act 2011), that have been followed in preparing the BNP in relation to public engagement and provides a comprehensive chronology of the activities undertaken during the preparation of the Plan, from inception at the Public meeting on 25 October 2016 up to the Extraordinary Meeting on 30th November 2021 at which the decision was made to submit the draft Plan and related documents to TDC under Regulation 15 of the Neighbourhood Development Planning (General) Regulations 2012. This table helpfully distinguishes for each topic between meetings of the Neighbourhood Planning Group and Core Group and the public engagement meetings and activities for the public, stakeholders, statutory bodies and developers.

- 2.3 The CS further explains the measures taken during the restrictions that were imposed nationally during the Covid 19 pandemic, using video conferencing to facilitate public engagement from March 2020.
- 2.4 The responses received from the various consultation activities and events, how these were assessed and analysed and how the iterations of the draft Plan were altered having regard to the opinions expressed by the various consultees at each stage are recorded and assessed in the CS. The Regulation 14 consultation appears to have been particularly rigorous, the separate report comprising Annex 1 to the CS “Birchington Parish Council, Neighbourhood Plan Consultation, Feedback and Action Responses,” detailing the opinions and observations expressed and how these were taken into consideration in amending and refining the submission version of the Plan.
- 2.5 The activities of the Core Group in steering and organising the public consultation throughout the preparation of the BNP is commendable and significantly influences the weight that should be accorded to the thrust of planning policies which have been formulated consequently and underpinned through the extensive evidence base available through the Parish Council’s website.

2.6 Regulation 16 Consultation

2.7 Prior to the commencement of the examination, BPC had submitted the submission version of the BNP to TDC under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012). This material was considered at an Extraordinary Meeting of Birchington Parish Council on Tuesday 30 November 2021. The Council Minute of this meeting under item FC2021/73: Birchington Neighbourhood Plan 2021-2031, advised that Members had received the post-consultation version of the draft Plan, the Consultation Statement and the Basic Conditions Statement, which were submitted to Thanet District Council for pre-submission public consultation. At this meeting various minor amendments were discussed and agreed following which the submission version of the Plan together with:

- Consultation Statement
- Basic Conditions Statement
- Birchington Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Screening Report
- Birchington Neighbourhood Plan Habitats Regulations Assessment – Appendix,

were submitted to Thanet District Council for Regulation 16 consultation.

2.8 The public consultation ran for 6 weeks from 13 January until 24 February 2022. The documents were available for inspection online on TDC's website and comments were invited online, by email or in writing to Strategic Planning at Thanet District Council's offices during this period. Paper copies of the submission version of the BNP and supporting documents were available at Birchington Library and Birchington Parish Council's offices.

2.9 The consultation documents together with the Regulation 16 replies received by TDC were made available via Birchington Parish Council's (BPC's) and TDC's websites for this examination, including BPC's comprehensive evidence base in support of the BNP draft policies. These documents are listed in Appendix 1 to this examination report.

Consultation Summary

2.10 To meet the requirements of Regulation 15(2) of Neighbourhood Planning Regulations 2012, the consultation statement should:

- contain details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- explain how they were consulted;
- summarise the main issues and concerns raised by the persons consulted; and
- describe how these issues and concerns have been considered and where relevant addressed in the proposed neighbourhood development plan.

- 2.11 From the synopsis of the consultation activities from inception to submission of the examination version of the BNP, it is evident that there has been a high degree of liaison and consultation with TDC as well as with landowners, developers, community groups, business interests and the residents of Birchington-on-Sea as the Plan has evolved. From the evidence provided in the Consultation Statement prepared by the Parish Council, I am in no doubt that the consultation process meets the requirements of Regulation 15(2) of the Neighbourhood Planning Regulations 2012.

Basic Conditions Statement – initial considerations

- 2.12 Shortly after the commencement of the examination of the BNP, I became concerned regarding the extent to which the requirements of Regulation 15(1)(d) were met by the BCS. This requires that the submission material should include “... a statement explaining how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act.”
- 2.13 Whilst there is no prescribed method for the preparation of a Basic Conditions Statement the Planning Practice Guidance explains that:

“Regulation 15(1)(d) advises that the Basic Conditions Statement should explain how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act. This is confirmed in Regulation 22(1)(e) of the Neighbourhood Planning (General) Regulations 2012 (as amended)) as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The Basic Conditions to be satisfied are:

a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).

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. This applies only to Orders.

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. (The text in italics applies only to Orders.)

d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.

e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).

f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.

g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan)."

- 2.14 A useful summary of what needs to be covered in preparing a BCS is also set out on page 65 of "Guidance to service users and examiners" prepared by the Neighbourhood Planning Independent Examiner Referral Service (NPIERS), 2014, at Annex 2: Scope of a Neighbourhood Plan Examination – Summary of the Legal Requirements.
- 2.15 National guidance and Regulations are clear that in preparing a Basic Conditions Statement, it should demonstrate **how** emerging policies in the relevant neighbourhood plan generally conform to national and adopted strategic planning policies. I therefore expected that the BCS would contain an explanation as to how in relation to specific national policy and adopted strategic local plan policy how each draft BNP policy broadly conforms to this guidance. However, the BCS simply referred to the thematic structure of the BNP in the context of the chapters of the Plan rather than by explaining how the emerging Plan policies conform to policy advice by reference to specific paragraphs in national guidance and at local level, how the policies conform to strategic policy guidance in the adopted Development Plan. The approach in the BCS cross referred to the submission version of the BNP and Appendix A to the Plan where relevant NPPF chapter headings and adopted Local Plan policies are listed. Neither the submission version of the Plan nor its Appendix A assess how the emerging BNP policies conform generally to the NPPF guidance and specific strategic development plan policy and thus the requirement of Regulation 15(1) had not been met.
- 2.16 Furthermore, there was a lack of appreciation that in meeting the requirements of Regulation 15(1)(d), the BCS is intended to be a self-contained document by which the veracity of the policy content of the neighbourhood plan is demonstrated by explaining how it conforms to national and strategic locally adopted planning policy. As drafted, the Birchington BCS did not in itself provide such validation to meet the Basic Conditions requirements.
- 2.17 As a development management document, there is undoubted merit in the Plan's evidence base to support the Plan policies, but justification in relation to demonstrating how the Plan policies conform with national and adopted local strategic planning policies was poorly developed in the BCS. There were various other matters where the Basic Conditions Statement submitted with the Plan to TDC for pre-examination consultation appeared deficient including the coverage of compatibility with EU obligations, prescribed conditions, and other legal requirements. These matters were set out in a draft letter to Jo Wadey, Planning Officer at TDC on 15th September 2022, together with an appendix summarising the legal matters that a Basic Conditions Statement would be expected to cover with respect to a neighbourhood plan to assist the examination of the neighbourhood plan.

- 2.18 By early October, BPC had revised the Basic Conditions Statement. TDC sought counsel's advice concerning the suspension of the BNP examination and the proposal that the revised BCS with the earlier documents submitted to TDC should be subject to public consultation, following which the examination would be resumed. A summary of that counsel's advice together with my letter of 15th September 2022 formed part of the public consultation material associated with the revised Basic Conditions Statement.
- 2.19 The public consultation for the revised Basic Conditions Statement was organised and undertaken by TDC commenced on 8th November 2022 and closed on 20th December. The supporting consultation documents comprised:
- Submission Version of the Proposed Birchington Neighbourhood Plan
 - Consultation Statement
 - Consultation Statement Appendix - Reg 14 Feedback Report and Analysis
 - Birchington Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Screening Report
 - Birchington Neighbourhood Plan Habitats Regulations Assessment - Appendix
 - Letter from the Examiner - 15th September 2022
 - Conclusion of Legal Advice
 - Original Basic Conditions Statement
 - Revised Notification of Compliance by TDC
- 2.20 An informal discussion was held with representatives from Birchington Parish Council and the Neighbourhood Plan Group, and officers from Thanet District Council at 10am on Friday 2 December 2022 at the Birchington Centre attended by:
- Jane Bevan, Parish Clerk
 - Neville Hudson, Chairman
 - Nick Blankley, Councillor
 - Rod Giddins, Neighbourhood Plan Advisor to the Parish Council
 - Jo Wadey, Strategic Planning Officer TDC
 - Adrian Verrall, Strategic Planning Manager TDC
 - Jeremy Edge, Examiner
- 2.21 The principal purpose of the meeting was to review the examination process and procedure after the closure of the re-consultation after 20th December and the resumption of the examination.
- 2.22 The further consultation attracted little public interest, only six consultation comments were received.
- 2.23 All further references to the Basic Conditions Statement in this examination report relate to the revised BCS dated 4th November 2022, unless otherwise stated.

2.24 The revised BCS overcomes my reservations in relation to the initial BCS as follows:

- a) Tables 1 and 2 in the revised BCS satisfactorily demonstrate and explain how the draft policies of the BNP conform to the policies of the NPPF and the adopted strategic planning policies of the Local Plan, thereby conforming to the requirement of Regulation 15(1)(d) of the Neighbourhood Development Planning (General) Regulations 2012.
- b) The period of the Plan is confirmed as 2021 to 2031 to align with the adopted Thanet Local Plan.
- c) The whole Parish of Birchington on Sea has been formally designated as a Neighbourhood Area (NA) approved by TDC on 8th December 2016 and that the NA aligns with the parish boundary.
- d) The submission version of the BNP contains objectives and policies relating to the development and use of land within the NA.
- e) Proposals relating to planning matters (the use and development of land) have been prepared in accordance with the statutory requirements and processes set out in the Town and Country Planning Act 1990 (as amended by the Localism Act 2011) and the Neighbourhood Planning Regulations 2012.
- f) With the exception of Policy B8 and associated references to waste management in the supporting text, the Plan does not deal with county matters (e.g. mineral extraction and waste development), excluded development, nationally significant infrastructure or other matters set out in Section 61K of the Town and Country Planning Act 1990. To meet the Basic Conditions requirements under s61K, references to waste management need to be removed from the Plan. I have suggested modifications to Policy B8 and the supporting text which if accepted would overcome this concern.
- g) The BNP only relates to the Parish of Birchington on Sea. It does not relate to more than one NA; and there are no other NPs in place within the BoS neighbourhood area.

Basic Conditions Statement – revised version

3.1 The Basic Conditions Statement notes that the four “basic conditions” required by the Regulations must be satisfied if the Plan is to proceed to referendum and explains how his requirement has been met, namely;

- The Plan must have appropriate regard to national planning policy;
- Neighbourhood Plans must promote the achievement of Sustainable Development;
- The Objectives and Policies of the submission version of the Plan must be in general conformity with the strategic Policies in the Thanet Local Plan. This was adopted on 9 July 2020, together with the Landscape Character Assessment Supplementary Planning Document (SPD).
- The Plan must be compatible with the European Union (EU) and European Convention on Human Rights (ECHR) obligations.

Conformity with the National Planning Policy Framework (NPPF).

- 3.2 In demonstrating how the submission version of the BNP conforms to and has appropriate regard to national planning policy, the BCS provides six comprehensive matrices in the Annex to the BCS. In relation to meeting the requirements of Regulation 15 (1)(d) of the Neighbourhood Planning (General) Regulations 2012 by providing the information contained in the Annex, the BCS explains how the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act. Notably, Table 1 of the Annex explains how the BNP strategic objectives and the BNP planning policies conform to the 12 planning principles in the National Planning Policy Framework (NPPF) at paragraph 17, whilst Table 2 further demonstrates how the draft neighbourhood plan policies meet the national planning policies contained in the National Planning Policy Framework (NPPF) and the strategic policies in the adopted Thanet Local Plan, 2020. Together these tables demonstrate that the BNP draft policies would deliver sustainable development in the neighbourhood area, if the Plan were to be made, subject to recommendations being accepted as recommended in this examination report.

Achieving sustainable development

- 3.3 The NPPF advises that all plans should be based upon the presumption in favour of sustainable development with clear policies that guide how the presumption should be applied locally. Paragraph 13 of the NPPF advises that the application of this presumption has implications for the way communities engage in neighbourhood planning. In particular, neighbourhood plans should support the delivery of strategic policies contained in local plans and by shaping and directing development that is outside of these strategic policies. The approach taken by the neighbourhood planning group and the Parish Council accords with this advice and the Plan policies should deliver sustainable development across the neighbourhood area over the lifetime of the neighbourhood plan.
- 3.4 The Basic Conditions Statement identifies at paragraphs 21-27 how the BNP has been positively prepared, reflecting the presumption in the NPPF in favour of sustainable development. This section of the BCS summarises how the objectives and policies in the Plan will contribute towards the three strands of sustainable development, delivering environmental, economic and social benefits.
- 3.5 Table 6 of the Annex to the BCS provides details of the Sustainability Assessment undertaken to test the likely effects of the draft Plan policies including the proposed strategic housing site, against environmental, economic and social impacts, the three principal sustainability factors. The assessment concluded that the policies of the Plan are designed to benefit the whole community through sustainable outcomes.
- 3.6 I concur that the BNP has been prepared with regard to achieving the principles of delivering sustainable development as identified in the Basic Conditions Statement. If, subject to my recommendations, the Plan proceeds to referendum and is subsequently made, it will assist in delivering sustainable development within the Parish.

General conformity with the strategic policies of the adopted Local Plan

- 3.7 Paragraph 29 of the NPPF and footnote 18 requires that neighbourhood planning policy should be aligned with the strategic needs and priorities of the wider local area and that neighbourhood plans must be in general conformity with the strategic policies of the Development Plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies. The Annex to the BCS satisfactorily demonstrates that general policy conformity of the BNP with the strategic planning policies of Thanet Local Plan. I concur that this Basic Condition requirement is met.
- 3.8 I am also content that the BNP, subject to the recommended policy alterations, does not promote less development than set out in the adopted Local Plan, or undermine its strategic policies. I am also content that the BNP conforms to the advice in paragraph 16 of the NPPF which seeks to avoid duplication of adopted planning policies covering the same geographic area, at other spatial scales.

Excluded Development

- 3.9 Although paragraph 43 of the BCS indicates that the Plan contains no policies relating to the “County” functions of waste management and minerals planning, Policy B8 expressly refers to a requirement in respect of waste management sustainability and the need for a supply assurance statement and a connectivity statement from providers before proposals are supported by the Parish Council, (see page 37). This policy contravenes the Basic Condition requirements. For the Plan to be acceptable, this policy needs to be deleted or significantly altered. I make my recommendation in the policy section of this report below.

EU obligations

Strategic Environmental Assessment and Habitats Regulation Assessment

- 3.13 The BCS explains that in October 2021, Thanet District Council provided a Screening Opinion on the need to conduct Strategic Environmental and Habitats Regulations Assessments, in accordance with European Directive 2001/42/EC, the European Habitats Directive (The Conservation of Habitats and Species) Regulations 2017 as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and associated Environmental Assessment of Plans and Programmes Regulations 2004. Since none of the statutory consultees approached by TDC considered such assessments were necessary, the screening opinion issued by TDC stated that the Birchington Neighbourhood Plan in its current form will not have significant effects in relation to any of the criteria set out in Schedule 1 of the Strategic Environmental Assessment Regulations and therefore did not warrant SEA or HRA. The screening opinion is attached to the BCS (Section 1 of the Appendix for SEA and Section 2 for HRA).

Convention on Human Rights

- 3.14 In addition to conforming to its EU obligations, I am content that the Plan does not breach, and is not otherwise incompatible with the European Convention on Human Rights. This statement is justified through the extensive engagement with the community and stakeholders as indicated in the Consultation Statement. I also note that considerable care has been exercised throughout the preparation and drafting of the BNP to ensure that the views of the whole community were considered to avoid unintentional negative impacts on particular groups, as further explained in the BCS. I am therefore of the opinion that there are unlikely to be any prejudicial effects on Human Rights and the related Equality Act 2010 if the Plan were to be made in accordance with my recommendations in this examination report.

Basic Conditions – Interim Conclusion

- 3.15 The Basic Conditions Statement (BCS) has been clearly and systematically prepared in setting out how the Plan meets the Basic Conditions. These matters are clearly set out in the section on Background and Legal Requirements in the BCS. In addition to the Basic Conditions Statement, the BNP is supported by a Consultation Statement and a significant evidence base which has informed the Plan's policies.
- 3.37 Subject to my earlier comments on excluded development above, and acceptance of the recommendations in the examination of the draft policies, I agree that the BNP is in general conformity

with the strategic policies of the relevant adopted Development Plan Documents (DPD) up to 2031 comprising:

- Thanet Local Plan adopted 9 July 2020
- Landscape Character Assessment Supplementary Planning Document (SPD), adopted 9 July 2020, and
- First Homes Interim Policy Statement, adopted for Development Management purposes by the Council on 16 June 2022.

3.38 In examining the BNP, I have assessed the extent to which the neighbourhood plan conforms to guidance in the NPPF and is in general conformity with adopted strategic local policies. Under the principle of general conformity with adopted strategic local policies, neighbourhood plan policies may differ to some extent from strategic local policies, yet still meet the basic conditions. General conformity is considered for the whole neighbourhood plan, so does not imply absolute conformity on every detail of strategic policy. Relevant considerations include:

- whether the neighbourhood plan policy or development proposal supports and upholds the general principle with which strategic policy is concerned;
- the degree of conflict if any, between the draft neighbourhood plan and strategic policy;
- the extent to which draft neighbourhood plan policy provides an additional level of detail and/or a distinct local approach, beyond that set out in strategic policy without undermining that policy; and
- the rationale for the approach taken in the draft neighbourhood plan and the evidence to justify that approach.

3.39 I make my comments in respect of specific draft policies in Section 5 and more generally in the Summary and Conclusions sections of this report below.

Background Documents

4.1 The background documents referred to in the preparation in this examination report are listed in Appendix 1.

Birchington on-Sea Neighbourhood Plan 2021-2031 – Planning Policies

5.1 Beyond the vision statement, the submission draft BNP sets out a set of 15 objectives as the basis for the proposed policies. These are shown within each of the policy sections within the Plan. Chapter 5 of

the Plan describes the approach adopted by the neighbourhood plan group leading to the formulation of the draft policies. The Plan explains that the vision, aspirations and priorities were derived from community involvement, village appraisals and surveys and that the Objectives have been constructed to deliver the vision and community aspirations. The policies have been formulated having regard to the direction, advice and constraints imposed by national and local strategic guidance and also from the generally comprehensive evidence base prepared to justify the emerging policies through the preparation of the Plan.

- 5.2 The BNP policy sections contain a statement showing the relevant aspiration(s) and a summary of key issues and concerns raised by the community. The various objectives are included in each policy section and help provide further context for the policies and provide longer term targets for the community to achieve. Helpfully, the Plan distinguishes non-land use planning projects from planning policies. Non-land use aspirations and projects are not considered by the examination process. I therefore make no comment on them. In terms of determining the extent to which the draft Plan meets the Basic Conditions tests it is the land use policies which are examined since it is these that will become material planning considerations in terms of development management if the Plan is made.
- 5.3 **If the BNP is to proceed to referendum, the recommended modifications to the policies must be accepted by the Parish Council if the Plan is to move forward to that stage. Where I have recommended changes to the draft policies, the recommended revisions are shown as tracked changes in Appendix 2 with “clean” copies of the altered policies in Appendix 3. Where policy revisions are recommended, the explanatory text relating to those policies subject to alteration may also require some modification to reflect the recommended modified policies. Such changes will be a matter for the Parish Council to draft, doubtless in conjunction with the Planning Department of the District Council, as part of its duty to co-operate.**
- 5.4 **It should be noted that in examining the neighbourhood plan to determine whether the Plan meets the Basic Conditions tests, this examination has not considered non land use planning matters. Therefore, the community inspired projects, conclusions and action plan sections of the BNP have not been examined in this examination.**
- 5.5 I set out below the examination of each of the BNP draft planning policies and the related explanatory text within the submission version of the Plan to establish, in accordance with paragraph 37 of the NPPF whether the neighbourhood plan policies are in general conformity with the strategic policies of the development plan.

5.6 Policy B1

Policy B1: New development and adaptation which accords fully with the Birchington Village-wide Design Guidelines and Site Design Guidance and Codes will be supported.

The Design and Access Statement submitted with a planning application should set out how this policy has been complied with and provide an explanation of any divergence from the requirements of this policy.

- 5.7 Policy B1 supports Objective 1: *“To conserve and enhance the character of our seaside village and its historic environment.”* It seeks to ensure that proposed development should be compliant with the Birchington Village-wide Design Guidelines and Site Design Guidance and Codes. It is said to be compliant with the NPPF, at paragraph 13 by shaping and directing development that is outside of these strategic priorities of the Development plan. The Consultation Statement explains the chronology of the preparation of the Plan which was aided by the extensive evidence base within the AECOM submitted reports on the Village-wide Design Guidelines, Site Design Guidance and Codes and a local Housing Needs Assessment. The Consultation Statement also confirms that the Core Group also produced their own reports including a Character Assessment, a Landscape Character Assessment, a Conservation Area Review, Station Road Improvement Scheme Brief and Green / Open Spaces Assessment which have contributed to the preparation of the BNP.
- 5.8 In terms of design policy, I agree that Policy B1 conforms to Local Plan Policy SP35 concerning the delivery of high-quality development incorporating inclusive design.
- 5.9 From the Regulation 16 consultation replies, no specific comments were made in relation to this policy on behalf of the respondents.
- 5.10 The policy does however conflict with town planning legislation relating to the definition of development in s55 of the Town & Country Planning Act which explains the meaning of “development” and “new development”, as the “means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”
- 5.11 Section 55 1A explains that “For the purposes of this Act “building operations” includes—
- (a) demolition of buildings;
 - (b) rebuilding;
 - (c) structural alterations of or additions to buildings; and
 - (d) other operations normally undertaken by a person carrying on business as a builder.”
- 5.12 However, section 55 (2) advises that;
- “The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—
- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which —

- (i) affect only the interior of the building, or
- (ii) do not materially affect the external appearance of the building...

5.13 “Adaptation” is not defined in the glossary of terms in Part C of the Appendix to the BNP, but is defined on page 29 of the Plan “...that throughout the Plan, the term “adaptation” means: any change to an existing building or structure (for example, conversion of a barn to a dwelling or an extension to provide additional storage or working space) and should be interpreted in its broadest sense).” Adaptation in its broadest sense would include internal as well as external changes to the structure and fabric of buildings and might include changes of use to land and buildings. The incorporation of the term adaptation as defined would undoubtedly conflict with s55 (2) of the 1990 Act and cause confusion with the system of permitted development rights. The established term, “development” as applied in town planning policy should be adequate to cover all proposals which are subject to planning control in the context of neighbourhood planning. The inclusion of the term adaptation in policy B1 would therefore render the Plan in breach of the basic conditions tests. I therefore recommend that the term “adaptation” should be removed from Policy B1 as indicated in Appendix 2 and shown as modified in Appendix 3. The supporting text should be altered to remove the term “adaptation” generally from the Plan where there is any connotation that it would be used in the context of development management in determining planning proposals.

5.14 Policy B2

Policy B2: Development and adaptation on land allocated for development in the DP, which is adjacent to, and outside the existing urban area, will be supported where it provides continuity and a seamless transition between the new and the character of the existing settlement. Proposals should incorporate measures in design and construction to protect as far as possible existing significant views and vistas.

The Design and Access Statement submitted with a planning application should set out how this policy has been complied with and an explanation of any divergence from the requirements of this policy.

5.15 The Basic Conditions Statement advises that the Policy B2 conforms to the NPPF at Chapter 12: Achieving well-designed places, paragraph 129, which states;

“Design guides and codes can be prepared at an area-wide, neighbourhood or site- specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents. Landowners and developers may contribute to these exercises but may also choose to prepare design codes in support of a planning application for sites they wish to develop. Whoever prepares them, all guides and codes should be based on effective community engagement and reflect local aspirations for the development of their area, taking into account the guidance contained in the National Design Guide and the National

Model Design Code. These national documents should be used to guide decisions on applications in the absence of locally produced design guides or design codes”.

- 5.16 The BCS notes that Policy B2 conforms to Local Plan strategic policy SP35 Quality Development requiring new development to be of high quality.
- 5.17 The Ptarmigan Group (in conjunction with Millwood Designer Homes), prospective developers of the strategic site SP16 in the Thanet Local Plan (TLP), submitted their Regulation 16 representations to BPC, copied to TDC on 20th October 2021. Whilst recognising the shared endeavour in the Plan to achieve an appropriate transition between the expanded settlement boundary to the south-west of the village and open countryside beyond, the Ptarmigan Group drew attention to the need for flexibility in achieving this goal. Mr. Peter Dowling of Ptarmigan Land, in his letter to BPC of 20th October, at pages 6-8, expressed concerns that the preparation of the Site Design Guidance and Design Codes prepared as part of the evidence base for the BNP need to be reviewed for matters of accuracy. Although acknowledging that the preparatory work for the BNP provides a detailed understanding of the character of Birchington, the design guidance and codes may not necessarily be appropriate in the context of Birchington.
- 5.18 The quality of research and detailed assessment provided by the Core Group in preparing the evidence base for the BNP is generally excellent and the Core Group should be commended for their work to help underpin the policies in the Plan. Apart from removing the term “adaptation” from the draft policy, I do not consider further modifications are necessary.
- 5.19 I recommend that Policy B2 be amended by deleting reference to the term “adaptation” for the reasons covered in the consideration of Policy B1 above and as indicated in Appendix 2 by way of tracked changes, and as shown as made in Appendix 3.

5.20 Policy B3, B4, B5 and B6 – Conserving our Heritage.

These policies all contribute towards realising the Parish Council’s intention as set out in the BNP in Objective 2: “To conserve and enhance heritage assets, the Conservation Area(s), listed buildings and ancient monuments”.

5.21 Policy B3

Policy B3: New development and adaptation that responds positively to heritage and character assets that may be affected by the proposed changes will be supported.

- 5.22 Policy B3 conforms generally to the advice contained in Chapter 16 at paragraph 190 of the NPPF and in relation to strategic Local Plan policy, SP35-Quality Development, which in turn cross refers to Local Plan policy QD02 – General Design Principles. The policy supports development proposals that demonstrably promote and enhance local character in the built environment, and which reinforce local distinctiveness of heritage and character assets in the neighbourhood area.
- 5.23 Kent County Council (Francesca Potter) confirmed support for this policy, otherwise the policy attracted no further comment.
- 5.24 Reference to “adaptation” needs to be removed from the policy text as previously explained in considering Policy B1. Subject to this amendment, I recommend no further alterations to Policy B3 other than a minor alteration to the text as shown by way of tracked changes in Appendix 2 and as made in Appendix 3.

Policy B4

Policy B4: Planning permission will not normally be granted for development resulting in the loss of existing buildings or structures on the local list of heritage assets unless they are deemed unsafe or beyond economic repair.

Alterations, extensions or other development which would adversely affect the appearance or setting of such buildings or structures or have any adverse impact on archaeological assets including Scheduled Monuments, will not be supported.

- 5.25 The BCS at Table 2 notes that Policy B4 conforms to the Chapter 16 of the NPPF at paragraph 195 where the national advice is that Local Planning Authorities should identify and assess the significance of any heritage asset that may be adversely affected by development proposals by weighing up the planning balance between conservation of the heritage asset and any aspect of the proposal. Policy SP36 of the Local Plan explains that this balance should be assessed to achieve a shared understanding of the reasons for designation of the asset and its importance.

- 5.26 In her comments made during the Regulation 16 consultations, Francesca Potter on behalf of Kent County Council (KCC) expressed support for Policy B4. This response also advised that the conditions set out in paragraph 201 of the NPPF should be fulfilled before substantial damage to, or loss of, a designated asset might be permitted. The County Council's response indicated that although Policy B4 concerns local heritage assets rather than designated assets, a similar approach should be taken in this policy. TDC's comments on Policy B4 refer to footnote 68 of the NPPF which states that *'Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets'*. TDC's response suggests that the final clause of Policy B4 needs to clarify that Policy B4 only applies to such assets. TDC suggested the following amendment, "... or have any adverse impact on significant archaeological assets..."
- 5.27 KCC's representations acknowledges the Parish Council's recognition that it may not be possible to defend all Birchington's archaeological assets in all circumstances, as described in the supporting text to Policy B4. Accordingly, the County Council recommends that the approach to archaeological assets, as described in the NPPF, should be followed closely. The representations suggested that developers must be required to be proactive in assessing the archaeological significance of assets that could be affected by their proposals and presenting such assessments with their applications, consistent with the advice in the NPPF, paragraph 194, including desk-based assessment and perhaps field assessment. In addition, followed by the assessment process as described in NPPF at paragraphs 195 to 197.
- 5.28 In order not to unnecessarily duplicate national policy advice in the Plan, I would favour drawing developer's attention in the supporting text to Policy B4 to the section in the NPPF which sets out the methodology and approach advocated in assessing the likely effects of development proposals on heritage assets. This is described in paragraphs 194-197 of the NPPF. The supporting text could usefully encourage developers to follow this guidance when development proposals are being prepared, in advance of submitting proposals to the local planning authority.
- 5.29 Taking the representations into account and also having regard to the fact that TDC will take relevant development management decisions rather than BPC, I recommend the modifications to Policy B4 as set out Appendix 2 by way of tracked changes and as made in Appendix 3.

5.30 Policy B5

Policy B5: Within designated Areas of High Townscape Value, the conservation and/or enhancement of the local character will be the primary planning aim. In furtherance of this aim, development will be supported only where it conforms with Policy B1.

- 5.31 Table 2 of the Annex to BCS notes that Policy B5 conforms to paragraph 197 of the NPPF and Policy SP36 of the TLP, the intention being that in areas of high townscape quality, new development will make a positive contribution to enhance local character and distinctiveness.

- 5.32 The County Council expressed support for this policy in its Regulation 16 comments. KCC also offered to work with TDC on developing a formal List of Local Heritage Assets that will support the Parish Council's work in conserving and enhancing local character. It is evident that a review of the extent of the Birchington on Sea Conservation Area is overdue. There were no other policy specific Regulation 16 representations concerning Policy B5 in the submission version of the Plan.
- 5.33 Work undertaken by the Core Group in the preparation of the Birchington on Sea Character Assessment, January 2021, distinguished through this assessment, the three Areas of High Townscape Value, shown on Map 6 in Part B of the Plan, being:
- Mill Row/Mill Lane
 - Shakespeare Road/Gainsborough Road/Spencer Road Area
 - Station Road/Station Approach/part of Alpha Road/Dog Acre Area
- 5.34 In the event that TDC undertakes a review of the extent of conservation areas in the neighbourhood area, the evidence base provided in the supporting character assessment for the BNP together with the offer of support from KCC extending to working with TDC on developing a formal List of Local Heritage Assets would appear to be of considerable benefit in further conserving buildings of high townscape value within the settlement.
- 5.35 I have no proposed modifications to Policy B5. This policy will assist in maintaining the local character and distinctiveness of the built environment within Birchington if the BNP is made.

5.36 Policy B6

Policy B6: At designated and non-designated archaeological sites likely to be affected by, or incorporated into new development, proposals for appropriate information and permanent interpretation to be displayed at the site(s) will be required.

- 5.37 The BCS advises that Policy B6 conforms to the guidance in the NPPF in Chapter 16 at paragraph 205. This national guidance empowers local planning authorities to require developers to record and advance understanding of the significance of any heritage assets to be partially or completely lost through development in a manner proportionate to their importance and impact and make this publicly accessible. The BCS also advises that the policy conforms to TLP policy SP36 through the requiring the provision of information describing the significance of any heritage asset affected and the likely impact of the proposed development on this significance.
- 5.38 The Regulation 16 comments of Kent County Council expressed support for this policy, although suggested altering the text to read, "...At designated and non-designated archaeological sites of particular significance...". There were no policy specific comments from other parties to the pre-examination consultation.

- 5.39 I agree with the proposed modification of the policy text as suggested by KCC as this would facilitate a more proportionate approach to the importance of the heritage assets affected and the likely impact of development upon them. In some circumstances, in providing a permanent on-site record of information and interpretation may not be appropriate. Allowing such flexibility, would accord more closely with the national guidance at paragraph 205 of the NPPF. I therefore recommend the policy be modified as shown in Appendix 2 by tracked changes and as made in Appendix 3.

5.40 Policy B7

Policy B7: New development on allocated sites and other adaptation which is demonstrably sustainable and results in net zero greenhouse gas emissions during construction and when in use, including incorporating renewable on-site energy production and other measures to protect the environment, will be supported, subject to other policy requirements.

Developers should submit a statement of sustainability showing proposed environmental protection measures and the impact of potential greenhouse gas emissions arising from the proposed development.

- 5.41 The supporting statement explains that through Policy B7, Birchington will play its part in reducing the emission of greenhouse gases, ensuring and supporting good design of new development, recognising that TDC has similarly embraced the need to ensure that all new buildings and conversions have resilience to function in a changing climate through Policy SP37 in the TLP.
- 5.42 The BCS advises that Policy B7 conforms to Chapter 14 of the NPPF paragraphs 154 and 156 by planning new development to avoid increased vulnerability to the range of impacts arising from climate change including through the planning of green infrastructure and reducing greenhouse gas emissions, by location, orientation and design.
- 5.43 TLP Policy SP37, requires new development to respond to climate change:
- “...1) by minimising vulnerability and providing resilience to the impacts of climate change through the use of up-to-date technologies, efficient design and appropriate siting and positioning of buildings;
 - 2) Mitigating against climate change by reducing emissions and energy demands through the use of up-to-date technologies;
 - 3) realise and make best use of available opportunities to reduce the impact of climate change on biodiversity and the natural environment by providing space for habitats and species to move through the landscape and for the operation of natural processes, particularly at the coast .”
- 5.44 Concern was expressed by the Ptarmigan Group by way of their Regulation 16 representations that the requirement in Policy B7 for, “New development on allocated sites and other adaptation which is

demonstrably sustainable and results in net zero greenhouse gas emissions during construction and when in use, including incorporating renewable on-site energy production and other measures to protect the environment, will be supported, subject to other policy requirements” is too onerous.

- 5.45 By contrast to the views of the Ptarmigan Group, the regulation 16 comments from Mr William Wrath called for all new and significantly redeveloped premises to be built with ‘green’ energy systems including heating and electricity and specifically exclude the installation of gas, wood burning and other carbon burning fuels.....” Such views are laudable and aspirational but are not currently deliverable, although may become so in the future, providing a clear strategy is pursued nationally to achieve this ambition. It must be questionable whether this can be achieved within the time horizon of the BNP to 2031 but may become so in subsequent iterations of the BNP in the future.
- 5.46 The criteria in Policy SP37, do not expect development in Thanet to meet a “net zero” emissions target in respect of construction or subsequent use following completion of development. Planning policies need to be aspirational to secure change to encourage new building technologies and the de-carbonisation of heating and cooling systems. However, in order to achieve delivery, these systems need to be affordable, viable and consistently applied for development to take place in the short to medium.
- 5.47 The second limb of Policy B7 requires development proposals to be accompanied by a statement of sustainability showing proposed environmental protection measures and the impact of potential greenhouse gas emissions arising from the proposed development. In a ministerial statement of 25 March 2015, the government created a new approach for setting technical housing standards to rationalise the many differing existing standards and thereby reduce “red tape” associated with planning and house building. As part of this initiative, the Code for Sustainable Homes was withdrawn and replaced by national technical standards which comprise new additional Building Regulations regarding water and access as well as a national space standard. From that time, new Local Plans, Neighbourhood Plans, supplementary planning documents and local validation lists were not to include any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. New national technical standards should be required through new Local Plan policies (but not Neighbourhood Plans) and only be included if they address a clearly evidenced need and where their impact on viability has been considered.
- 5.48 A zero emissions standard for development has not been applied as a requirement through strategic local plan policy in the adopted local plan. Such a standard would not appear appropriate to include in a neighbourhood plan at present, particularly without evidence of being deliverable by way of viability testing. I note that in February this year, the NHS published a net zero target for the NHS estate to be delivered by 2040. This publication includes a sophisticated delivery toolkit. This may prove a useful template but covers wider issues than town matters associated with development management,

construction and estate management. There is no evidence to suggest that there is a likelihood of Policy B7 as, drafted being deliverable within the lifetime of the BNP.

- 5.49 Objective 3 and Policy B7 are commendable, but the TLP offers an entirely satisfactory approach to encouraging development which is demonstrably sustainable in the context of achieving a reduction in carbon-based energy sources for heating and cooling buildings in **all** new buildings and conversions, through Policy SP37 and in the criteria by which this should be achieved in the development management policy, QD01- Sustainable Design. To avoid duplication of policy, I therefore recommend that Policy B7 be deleted from the BNP. This is not to suggest that the community should not play its part in reducing the emission of greenhouse gases, through development management but would be best achieved through consultation responses to TDC which support development which mitigates the effect of climate change which conforms to the adopted policies in the TLP. If this recommendation is accepted the supporting text to the policy would require revision, although there would be no reason to remove Objective 3 from the Plan. Subsequent Plan policies would require renumbering.

Policy B8

Policy B8: Proposals for Major New Development and adaptation will be supported where they are accompanied by assurance statements from utility service providers that additional supply and waste management is sustainable and will not be detrimental to existing users.

Developers should submit a connectivity statement explaining how their proposals will use and future-proof the most effective and up-to-date communications technology.

- 5.50 The BCS avers that Policy B8 conforms to Chapter 10 of the NPPF which covers national planning policy concerning supporting high quality communications and paragraph 114 which advises that provision of advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. The BCS also states that Chapter 14 of the NPPF, paragraph 169 supports this policy at paragraph 169, concerning planning and flood risk. The BCS does not identify a strategic adopted local plan policy in support of Policy B8.
- 5.51 Various comments were received concerning the Policy during the Regulation 16 consultation. Although waste management is an excluded matter for neighbourhood planning nonetheless, support from KCC was provided in support of the policy.
- 5.52 TDC expressed concern that the first section of Policy B8 seeks to replicate and add to the provisions within the Water and Industry Act 1991, being duties placed on water and sewerage companies. TDC noted that there was no evidence why this policy should be imposed above the requirements of national planning guidance and legislation. Furthermore, TDC expressed concern over what an “assurance statement from utility service providers” would constitute, or whether it is possible to attain

such a document at the planning stage in the process as opposed to the building control stage. The same views were expressed by Ptarmigan Group, but more forcefully than as raised by TDC in the Group's Regulation 16 comments made in October 2021 and February 2022.

- 5.53 I note that in preparing evidence for the Local Plan, TDC prepared a working draft Infrastructure Development Plan, updated in July 2018. The introduction to the draft IDP explained that the delivery of necessary infrastructure at the scale proposed in the emerging Local Plan could only be achieved through plan-led development. The draft IDP further explained that TDC had been working with a wide range of stakeholders, including Kent County Council, Highways England, Natural England, the Clinical Commissioning Group, utilities providers, Homes England, East Kent Opportunities and East Kent Spatial Development Company and others to understand the need for new infrastructure through the period of the Local Plan to 2031, to produce a robust Infrastructure Delivery Plan. The IDP was prepared against a draft Local Plan target for the provision of 17,140 dwellings for the period to 2031, to be met largely through the identification of a number of strategic development allocations including 1,600 dwellings at Birchington.
- 5.54 The draft IDP states that TDC took account of Kent County Council's (KCC) infrastructure delivery planning requirements across the district and worked closely with KCC on the viability assessment work and the Kent Growth & Infrastructure Framework (GIF) in advancing the IDP.
- 5.55 In relation to utility services, the quantum of development in the draft Local Plan required the provision of new utilities infrastructure including water, gas, electricity and digital infrastructure. The work undertaken identified "pinch points" in the networks that needed to be resolved. These were set out in the Schedule of Local Plan key infrastructure, an extensive thematic table related to specific development projects to be delivered over the Local Plan period. At that time, the evidence from modelling work undertaken through the Water Resources South East (WRSE) and Water Resources Management Plan (WRMP) processes.
- 5.56 The Schedule of Local Plan key infrastructure included the housing and other proposals set out in the draft Local Plan were assessed as part of the WRSE modelling work and the preparation of the WRMP. These processes concluded that there was sufficient water supply to meet future demand in the East Kent area, subject to new supply measures, including a new reservoir at Broad Oak (in Canterbury district), although this was not scheduled until just beyond the time horizon of the draft Local Plan. The Schedule of Local Plan key infrastructure is clear (page 20) that the necessary measures would be funded through the South East Water and Southern Water regular investment programmes but that developers would need to agree/fund new connections to the water supply network directly with Southern Water. The proposed strategic housing component of 1600 new dwellings at Birchington is explicitly mentioned in the context of these considerations in the Schedule of Local Plan key infrastructure, by water distribution capacity needing improvement at Birchington. The Schedule of Local Plan key infrastructure, identifies Southern Water Services (SWS) as the lead organisation in undertaking the infrastructure enhancements, with the funding of the new supply measures at Broad

Oak being provided by its regular investment programmes, but with developer contributions funding new connections to the water supply network in relation to the strategic housing supply at Birchington, this work being undertaken in parallel, phased in the period up to 2031.

- 5.57 There is no suggestion in Southern Water Services Regulation 16 comments in February 2022 that there had been any change from its position as set out in the Schedule of Local Plan key infrastructure, as recorded in TDC's Working Draft Infrastructure Delivery Plan, July 2018. Indeed, SWS's Regulation 16 comment confirmed Water companies have a statutory obligation to serve new development and stated:

"We are committed to providing the right infrastructure in the right place at the right time. To this end we look to work in collaboration with local planning authorities, land promoters, developers and other stakeholders to understand the location and timing of development and co-ordinate the provision of necessary infrastructure. The need for additional sewerage capacity in the network is not a constraint to development, as network reinforcement would be delivered by Southern Water in tandem with new development.

We would therefore seek, where necessary, for policies and subsequent planning conditions to ensure that occupation of development is phased to align with the delivery of any requisite sewerage network reinforcement."

- 5.58 However, SWS's comment that the provision of these services needs to be addressed in an approved strategic plan prior to commencing any new developments water rationing is to be avoided would appear to require consideration through the preparation of the masterplan for the development. These concerns should however be allayed by the requirements of TLP Policy SP16 which states:

"Masterplanning will be informed by and address the following:

5) The capacity of any utility services and infrastructure and any need (and provision of) improved or additional infrastructure (as may be advised or reasonably required by service providers).

All development proposals must be planned and implemented in a coordinated manner and accompanied by an infrastructure delivery and phasing plan."

- 5.59 Delivery of telecoms infrastructure is not a matter over which developers have overall control. Telecommunications is a reserved power, where overall policies and targets are set by the UK Government. Some aspects of infrastructure building, such as planning and building regulations, are devolved responsibilities. Others, such as the rules on access agreements, apply UK-wide. Delivery of broadband in the UK is provided by private telecoms companies known as "operators". The provision of new infrastructure requires the acquisition of wayleaves from landowners in addition to planning permission and permission to undertake streetworks. In many instances the infrastructure necessary comprises installations which are classed as permitted development, requiring prior approval from local planning authorities. Government policy associated with the delivery of necessary telecoms

infrastructure has been a balancing act seeking to provide the operators the ability to provide competitive networks whilst respecting the interests of landowners. Reforms to accelerate the delivery of telecoms infrastructure and dispute resolution were enacted in December 2022. In the light of the way in which the delivery of telecoms works, it is not clear that it would be feasible for developers to prepare and submit a connectivity statement explaining how their proposals will use and future-proof the most effective and up-to-date communications technology.

- 5.60 Whilst there appears an absence of any clear Local Plan strategic planning function to which this policy relates in terms of development management, and the fact that it appears that the remit of Policy B8 would seek to extend development management beyond the scope of matters that neighbourhood planning may lawfully control, including excluded development, there is a case for recommending that this Policy be deleted. However, having regard to the strategic importance of delivering 1,600 new dwellings as anticipated in the TLP and BNP, and the general local support and encouragement for this development to proceed, (subject to the proposals meeting other planning policy considerations,) I recommend that Policy B8 should be modified as indicated in Appendix 2 by tracked changes and as shown as modified in Appendix 3, if the BNP is to proceed to referendum.
- 5.61 The supporting text to this policy would also require some redrafting, indicating that the aim of the policy, as at present, is to encourage developers of proposals that are likely to have a significant impact on demand for utility services, to demonstrate how sustainable development will be delivered through appropriate resource management.
- 5.62 The supporting text might also usefully reference the National Planning Practice Guidance, (Paragraph: 014 Reference ID: 56-014-20150327, Revision date: 27 03 2015) where all new homes should not exceed the mandatory maximum national standard set out in the Building Regulations (of 125 litres of water/person/day). Where there is a clear local need, as in water stressed areas such as Birchington, local planning authorities can set more stringent Local Plan policies requiring new dwellings to meet the tighter Building Regulations optional requirement of 110 litres/person/day. It may be feasible through discussions with the developer and TDC to secure such a standard by way of a planning condition in relation to the proposed housing development on the strategic SP16 site at Birchington.
- 5.63 The Government's policy to migrate from fossil fuels for heating and transport towards increased use of use of electricity means that continuity and resilience of supply of electricity will become increasingly important for the community as stated in the submission version of the BNP, in support of Policy B8.
- 5.64 As also stated in the supporting statement to Policy B8 in the submission version of the Plan, the increase in homeworking, accelerated through the covid -19 pandemic has demonstrated the importance of reliable, fast broadband connectivity throughout the housing stock and businesses in neighbourhood areas, to facilitate high speed and reliable digital networking so that businesses may continue to operate and communities, clubs, organisations and families may stay connected, as

emphasised in paragraph 112 of the NPPF, the importance of access to fibre optic connections offering a future-proofed method of delivering connectivity, being the aim for all developments.

5.65 Policy B9

Policy B9: Planning applications for new development within the Plan Area should demonstrate how they will contribute towards the delivery of community development. Section 106* Heads of Terms must support planning applications for Major Development Proposals in the Parish. Applicants should present these to the Parish Council for discussion during the determination period.

To further this policy, and in the interests of local democracy, the Parish Council would welcome early collaboration with Thanet District Council and Kent County Council in formulating requests for planning obligations to the Local Planning Authority as part of major application proposals in the parish.

Following the adoption of the Plan, the Parish Council will:

- a) **Seek to meet with Applicants of planning applications for Major Developments to discuss local infrastructure needs and the features of the development prior to the preparation of a planning application;**
- b) **Monitor all applications dealing with reserved matters on Major Developments in the Parish to review conformity to the Neighbourhood Plan Policies, providing representations to Thanet District Council as required.**

**Or any subsequent legislation governing developer contributions.*

5.66 Policy B9 conforms to the NPPF at paragraph 14 which states:

“34 . Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.”

5.67 Policy B9 of the BNP also conforms to Policy SP02 – Implementation of the adopted TLP, which expects all new development to, “fully meet its infrastructure requirements, whether directly on site and/or by way of a contribution to necessary off-site infrastructure, having regard to the provisions of the Infrastructure Delivery Plan.....”.

5.68 The Regulation 16 representations submitted by the County Council were generally supportive and indicated a strong willingness to co-operate with the Parish Council in terms of service delivery, although cautioned that due to the ‘spoke’ delivery models used by some County services, that it is not always appropriate, nor in the interests of users, to deliver county services through the closest specified community facility.

- 5.69 In relation to biodiversity the County Council drew attention the North Kent Strategic Access Management and Monitoring Strategy (SAMMS) contributions, noting that as the parish is located very close to the Thanet Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site, new developments will have to contribute to the North Kent SAMMS to ensure that new growth will not adversely affect the integrity of North Kent's wildlife sites.
- 5.70 Regulation 16 comments submitted by the Ptarmigan Group in October 2021 concerning this draft policy expressed some anxiety that as drafted the policy appears not to conform with the requirement for CIL contributions under Regulation 122 of the Community Infrastructure Levy Regulations. Regulation 122 states that planning obligations may only constitute a reason for granting planning permission if they meet the tests necessary to make the development acceptable in planning terms. Any contribution must be:
1. necessary to make the development acceptable in planning terms;
 2. directly related to the development; and
 3. fairly and reasonably related in scale and kind to the development.
- 5.71 I note that from the extensive evidence base prepared by BPC to support the Plan, by way of a paper to the Full Council of BPC in October 2020, explaining developer contributions under TLP's Policy SP16, the introduction to the paper acknowledges the restrictions on local planning authorities in negotiating planning agreements with developers and the requirements of Regulation 122 of the Community Infrastructure Levy Regulations.
- 5.72 As I understand Ptarmigan's concerns with Policy B9, the company is seeking the most appropriate mechanism for agreeing a planning agreement with TDC. There is no evidence to suggest that in discussing future developer contributions sought by BPC that these would fall outside of the requirements imposed by s122 of the CIL regulations. I also note that in its consultation comments, the LPA makes no observations on draft Policy B9. As the CIL negotiations will ultimately be for the developer and LPA to agree, it would be for the LPA to assess with the developer and ensure that the emerging planning agreement associated with the development of land to the south-west of Birchington conformed with Regulation 122 of the CIL Regulations. The approach outlined in Policy B9 is a mechanism which provides a reasonable framework within which negotiations between the parties may take place, whilst allowing BPC to have a reasonable locus during the preparation and assessment of the planning obligations and to be informed during the consideration of subsequent matters.
- 5.73 Accordingly, I believe that draft Policy B9 requires no alteration and would, if the Plan is made, subject to other recommendations in this examination report and passing a referendum, would contribute positively to the delivery of sustainable development within the Neighbourhood Area over the life of the BNP.

5.74 Policy B10

Policy B10: The sites identified on the Local Green Space Map will be protected from development in accordance with the National Planning Policy Framework 2021. Proposals for development in a designated Local Green Space will not be supported, unless necessary for the use of the land for public recreation or are required for a statutory utility or other public infrastructure purpose.

Development proposals that provide beneficial proportionate new and/or enhanced public open space will be supported.

- 5.75 The BCS confirms that Policy B10 conforms to paragraph 101 of the NPPF. However, in terms of the applying Local Green Space (LGS) policy, the NPPF also provides further guidance in paragraphs 102 and 103, ensuring that:

“The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;
- b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
- c) local in character and is not an extensive tract of land.

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

- 5.76 The definition of LGS as set out above in the NPPF at paragraphs 101-103 inclusive is significant for plan making in local and neighbourhood plans. It is not entirely clear from the supporting evidence that this has been appreciated in the preparation of the evidence in support of the designation of LGS in the BNP, where the term Local Green Space has been used more loosely. I am grateful to TDC and the Neighbourhood Plan Group for clarifying the position in terms of the intention to designate particular areas of land as LGS in the neighbourhood area.
- 5.77 Regarding strategic adopted local planning policy, BNP Policy B10 broadly conforms to the planning guidance in the TLP by policies SP32 - Protection of Open Space and Allotments, SP33 - Local Green Space and SP34 - Provision of Accessible Natural and Semi Natural Green Space, Parks, Gardens and Recreation.
- 5.78 The supporting text to Policy B10 in the BNP at paragraph 7 on page 40, refers to the Leisure and Recreation Assessment 2021, undertaken by Strategic Leisure Ltd for the Parish Council. This provides an audit of open and green spaces in the neighbourhood area which attempts to identify many of the open and green spaces within the parish which already have protection from development conferred by local plan policies.
- 5.79 Further evidence in support of Policy B10 provided by BPC includes the Birchington Neighbourhood Plan Assessment of Local Green Spaces including Views and Vistas. This document prepared by the

Neighbourhood Core Group and completed in January 2021, lists in Appendix A, open spaces in Birchington considered by Thanet District Council, prepared during development of the Thanet Local Plan. This underpins the evidence in this assessment.

- 5.80 Details of the sites identified in the Leisure and Recreation Assessment 2021, can be viewed via the Appendix, Part D, to the submission version of the BNP which may be accessed by following the link to document 6. Table 4 of this assessment identifies the protection afforded by local plan strategic policies SP24, SP25, SP26 and SP32 to existing green and open spaces. For convenience, the table is reproduced below. The table also indicates in the final column an intention in 2021 sites that may be designated as LGS (except the Birchington Bowls Club and Tennis Courts), in the then emerging BNP. This is not the current intention of Policy B10 in the submission version of the BNP. It should be noted that the sites listed in Table 4 do not fully correspond with the listing of green and open space sites in the BNP. I understand that this was due to differences between the development of the Plan and the Assessment because the draft list of spaces in Policy B10 had not been finalised when the Assessment was undertaken. It should be noted that TDC's Regulation 16 comments that Quex Park has not been afforded open space protection, as might be inferred from the Leisure and Recreation Assessment 2021. As a consequence, it appears that little weight should be accorded to the Leisure and Recreation Assessment 2021 in assessing BNP Policy B10.

Site No.	Site	Thanet District Council Local Plan Policy (Sites with y are covered under Policy)						Birchington Neighbourhood Plan Policy	
		SP32: Protection of Open Space	SP24 Development in the Countryside	SP 25 Green Wedge	SP 26: Landscape Character	E12 Quex Park	HE02 Birchington Conservation Area	BIR LGS1: Local Green Space	BIRC1: Community & Recreation
1.	Minnis Tops Cliff Tops & The Butts	y	y		y			y	
2.	The Parade, Minnis Bay	y						y	
3.	The Dip & Children's Playground, Minnis Bay 0.09Ha	y						y	
4.	Grenham Bay Cliff Tops	y						y	
5.	Birchington Bowls Club & Tennis Courts								y
6.	Eppe Bay Avenue (83) 0.02 Ha	y			y			y	
7.	Birchington & Westgate Golf Club		y	y				y	
8.	St James Terrace Eppe Hill Allotments	y	y	y				y	
9.	Queen Berthas Avenue							y	
10.	King Ethelbert School Open Space & Playing Field		y	y				y	
11.	Farmland Rear of King Ethelbert School		y	y				y	
12.	Quex Park				y	y		y	
13.	Farmland to South of Manston Road		y		y			y	
14.	Allotments & Woodland Park Lane/Brunswick Road	y	y					y	
15.	The Memorial Recreation Ground and Children's Play Area 3.1ha	y						y	
16.	Canterbury Road/ Charlesbury road							y	
17.	Sherwood Road	y						y	
18.	Birchington Primary School Open Space & Playing Field							y	
19.	Norrie Road / Canterbury Road							y	

Table 4 – Extract from Birchington Leisure & Recreation Assessment, January 2021 produced by Strategic Leisure Ltd.

- 5.81 Paragraph 10 of the supporting statement to this policy explains the policy intention of BNP Policy B10 is to designate new areas of open space, local green space and green wedges. These are identified on the policy related map which appears at page 43 of the submission version of the BNP, as shown below.



Green and open space typologies and their locations shown on the map at page 43 of the BNP

- 5.82 It is evident from the legend that the green and open space variants shown on the map at page 43 of the BNP comprise 5 groups as follows:

- Open space:
- Local Green Space:
- Green Wedges:
- Allotments: and
- Quex Park

5.83 Open Space

- 5.84 The proposed open space designations in the BNP, cross referenced to the open space and green space variants map are:

- 5 (Birchington Bowls Club and Tennis Courts),
- 9 (King Ethelbert School Open Space and Playing Fields),
- 15 Canterbury Road/Charlesworth Drive),
- 17 (Primary School Open Space and Playing Field),
- 19 (All Saint's Church Graveyard), and
- 25 (Open land at St Thomas C of E Church, Minnis Road)

- 5.85 The BNP proposes that these areas of local open space should be given protection from development where currently they are considered unprotected by policies in the local plan. The assessment for the inclusion of sites as areas of open space or local green space has been undertaken using the same

assessment method for all sites, as set out in the BNP Assessment of Local Green Spaces Report, January 2021, for the 26 sites examined within that report. The assessment method employed is essentially the method employed to assess land for LGS designation using the criteria set down in the NPPF at paragraphs 101-103. Within the assessment report, no distinction is provided between sites which might be appropriate for open space, rather than LGS designation. At page 8 of the assessment report, it is evident that in undertaking the assessment for open space and local green space, these terms have become conflated. Referring to the NPPF (paragraphs 101-103) it should be clear that LGS has a precise meaning. Accepting that making open space distinctions will involve a degree of subjectivity, the relevant sites have been proposed for either open space or LGS designation. I note that even in the submission version of the Plan, the view has been expressed that three sites would be more appropriate as LGS rather than as open space *“to more accurately reflect their purpose and use”*. In support of this opinion, during the Regulation 14 consultation TDC commented that in distinguishing between open space and LGS designations, the district council recommended that:

“.....the St Thomas C of E Church LGS proposal [which] would also be more appropriate as Open Space rather than a LGS.

Crispe Park and Neame Woods would be more appropriate for LGS designation rather than just Open Space. “

5.86 Local Green Space

5.87 The sites that are designated for LGS designation in the BNP are listed in paragraph 10 of the supporting text to this policy and are shown coloured purple on the open space and green space typologies map at page 43 of the BNP. For avoidance of doubt, Quex Park is not identified for designation as LGS in the supporting text, although it is coloured purple on the map in common with LGS designated sites. On the open space and green space typologies map Quex Park is identified as a separate open space and green space entity and is not proposed for LGS protection.

5.88 As mentioned in paragraph 5.76 above, in the Birchington Neighbourhood Plan Assessment of Local Green Spaces, Including Views and Vistas, Final version 12th January 2021, all of the green and open spaces were assessed against the criteria for LGS assessment required by the NPPF at paragraphs 101-103 inclusive for land where LGS designation is proposed.

5.89 The proposed sites identified for LGS designation in the BNP are:

- 8 (Queen Bertha's Avenue),
- 18 (Norrie Road),
- 23 (Duncan Drive),

5.90 Separately identified in the BNP at paragraph 10, but subject to a change in status by TDC, the following sites are proposed for designation as LGS from, "open space" to reflect their purpose and use more accurately:

- 16 (Sherwood Avenue),
- 20 (Crispe Park and Neame Woods),
- 24 (Grenville Gardens)

5.91 It is unclear why the BNP would require a change in designation of these sites to LGS by TDC, because neighbourhood plans may independently promote the designation of land in the neighbourhood area as LGS. If "made" following a successful referendum, such designation would then become effective for development management purposes. I note that in TDC's Regulation 14 consultation response for Policy B10, the district council suggested that for Crispe Park and Neame Woods, (site 20), LGS designation would be more appropriate than as open space for this land.

5.92 A consideration normally of interest in the assessment of LGS prior to designation, is how LGS will be maintained and managed following designation and whether the inclusion of a site as LGS might place unacceptable burdens on the owner. Many of the proposed BNP sites for LGS designation appear to be in public or quasi-public ownership and control and designation of the land as LGS would probably make little if any difference, to their management. In any event no objections were raised by any party during the Regulation 16 consultations due to resource considerations impacting on the management of land designated as LGS in the Plan.

5.93 A further matter to consider for LGS designation is whether the proposed LGS sites are sufficiently local in character and not extensive tracts of land. Concerning the BNP proposed LGS sites, none are individually or cumulatively of a size that would be inconsistent with LGS designation.

5.94 In conclusion, the supporting evidence base makes the appropriate case for open space protection and LGS protection for the sites identified in the BNP.

5.95 Green Wedges

5.96 It is unclear why the supporting text for Policy B10 includes reference to green wedges in the neighbourhood plan, particularly as there is no specific reference to green wedges in BNP policy for this development control mechanism. Furthermore, there is no policy justification for the inclusion of green wedges in neighbourhood plans in the NPPF. This is not surprising as green wedges perform a strategic planning function, more appropriate to Local Plans than at the neighbourhood plan scale. This function is already performed in the locality by TLP Policy SP25 - Safeguarding the Identity of Thanet's Settlements, by the Birchington – Westgate Green Wedge, which prevents coalescence of these two settlements.

5.97 Consultation comments

5.98 During the Regulation 16 consultation, KCC as Local Highway Authority confirmed that it was satisfied that the proposed policy wording for Policy B10 provides sufficient flexibility to avoid conflicting with potential future highway infrastructure.

5.99 TDC raised two site specific comments as follows:

- 1) Concerning the map on p118, relating to site 19, All Saints C of E Church Graveyard and Church House, the buildings should be excluded from open space designation.
- 2) For clarification, TDC confirmed that the Quex Estate is not protected as a green space in the Local Plan. TDC has advised that TLP Policy E12 applies to Quex Park and supports farm diversification projects, tourism, and leisure development. TDC's response noted that Policy E12 also identifies environmental issues within the site that need to be considered. A green space designation could cause the sterilisation of the site, and unnecessarily constrain projects that would be considered acceptable under TLP Policy E12.

5.100 These two points raised by TDC are reasonable and appropriate in the context of neighbourhood plan policy as proposed in Policy B10.

5.101 Policy recommendations

5.102 In the light of the comments above concerning Policy B10, I make the following recommendations.

- 1) Policy B10 should be modified to refer to the "Birchington-on-Sea green and open spaces map" rather than the "Local Green Space Map".
- 2) The proposed protected open spaces should be listed with their map reference numbers in Policy B10.
- 3) Similarly, the proposed areas for Local Green Space designation should also be listed in the policy.

It would not be appropriate for a neighbourhood plan to promote "green wedges" as a means of preventing coalescence of settlements, as these would constitute a strategic policy intervention. Therefore, the references to the proposed new Green Wedges shown on the Birchington-on-Sea green and open spaces map comprising:

- 12 Farmland south of Manston Road,
- 27 Farmland west of Dane Road and north of the railway line,
- 28 Farmland to the south-west of the village, to Brooksend, and
- 29 (Farmland to the south of the village, east of Canterbury Road);

should be removed, including the green colouring identifying these sites. This will require alterations to the numbering of retained green and open spaces generally throughout the BNP.

5.103 If the recommendations to modify Policy B10 above are accepted, it will also be necessary to modify the Birchington-on-Sea green and open spaces map as follows:

- a) The reference numbers to the locations of the protected open spaces designated in the BNP listed in Policy B10 should be shown in a different colour to the existing open space designations.
- b) The map relating to open space site 19, All Saints C of E Church Graveyard and Church House, should be modified to show the footprint of the buildings as excluded from open space designation.
- c) For clarity, the reference numbers to the locations for the proposed LGS sites should be shown in a different colour to the site of Quex Park as this is not LGS. The Quex Park estate should be shown with a different background colour to distinguish its use from the designated LGS sites.
- d) The only green wedge sites to be shown on the B10 policy map should be the sites reflecting the existing Westgate / Birchington green wedge. These boundaries of the Local Plan green wedge shown on the Birchington-on-Sea green and open spaces map should be checked by reference to the Thanet Local Plan interactive policy map.
- e) It would not be appropriate for a neighbourhood plan to promote “green wedges” as a means of preventing coalescence of settlements, as these would constitute a strategic policy intervention, the references to the proposed new Green Wedges shown on the Birchington-on-Sea green and open spaces map comprising:
 - 12 Farmland south of Manston Road,
 - 27 Farmland west of Dane Road and north of the railway line,
 - 28 Farmland to the south-west of the village, to Brooksend, and
 - 29 (Farmland to the south of the village, east of Canterbury Road).
 should be removed, including the green colouring identifying these sites.

5.104 The supporting policy text also warrants revision and updating to reflect the open space and local green space intentions if the Plan is to proceed to referendum. I recommend that the supporting text draws a distinction between open space and local green space as appropriate, to avoid uncertainty. It would also be helpful if the supporting text notes that Quex Park is protected by TLP Policy E12, which promotes farm diversification projects, tourism and leisure development where this contributes to the upkeep of the Quex House and Gardens, the Powell-Cotton Museum and promotes the Estate generally as a destination for tourism and leisure.

5.105 In conclusion, in examining BNP Policy B10, I recommend that the policy be amended by the tracked changes as shown in Appendix 2 and as made in Appendix 3 if the BNP is to proceed to referendum.

5.106 Policy B11

Policy B11: New development and adaptation of properties adjoining open spaces, countryside and sites designated as Local Green Space should reflect the character of the area and respect the setting provided by such spaces.

Development should not inhibit or reduce the views, importance and enjoyment of public open spaces.

5.107 The BCS notes that Policy B11 conforms to strategic guidance in the NPPF at paragraphs 125 and 185 which principally consider density of development and pollution respectively. In relation to adopted strategic local planning policy, conforms to Policy SP25 – Safeguarding the identity of Thanet’s Settlements. The BCS also notes that the policy generally supports policies SP26 - Landscape Character Areas, SP27 - Green Infrastructure, SP33 - Local Green Space, SP34 - Provision of Accessible Natural and Semi Natural Green Space, Parks, Gardens and Recreation Grounds.

5.108 Consultation responses concerning this policy were muted. Only the County Council responded with a much-repeated comment that neighbourhood plan policies should promote the inclusion of public rights of way to facilitate access to and public enjoyment of open spaces.

5.109 For development management purposes in neighbourhood planning, the policy would be more helpful if it were to be more positively framed. Also, it is a long-established principle in English Law, since 1610, that a landowner cannot protect the view that he has from that land. The rationale is that it would unduly limit the freedom to build on one's own land and thereby hinder beneficial development. For this reason, I recommend that the second clause of this policy should be removed if the Plan is to proceed to referendum. I further recommend that the draft policy be revised more positively as shown by the tracked changes in Appendix 2 and as made in Appendix 3.

5.110 Policy B12

Policy B12: In the open countryside or overlooking the coast, any intensification of use resulting in adaptation or new buildings should be sustainable, of an appropriate scale and have minimal impact on the character of the open landscape surrounding the village. Development proposals which maintain the views and vistas shown on the Views and Vistas Map will be supported, subject to other policy requirements.

5.111 The BCS cites the NPPF, Chapter 15: Conserving and enhancing the natural environment, at paragraph 174, which encourages planning policies to contribute to and enhance the natural and local environment. Policy B12 also reflects the content and advice of Chapter 12 of the NPPF, “Achieving well-designed places” and the guidance contained in paragraphs 126 to 136 of the NPPF, by respecting

the local context, including where appropriate, the character of open landscape surrounding the village and / or overlooking the coast.

5.112 Compliance and conformity with strategic planning policy is to be achieved by reference to Policy SP25 of the TLP as cited in the BCS. Policy SP25 sets out the local strategic policy approach for Green Wedges. This would not be appropriate for neighbourhood planning policy as noted above in considering draft Policy B11. The more relevant and appropriate strategic local planning advice appears to be provided in Policy SP24 of the TLP in assessing the appropriateness and conformity to adopted strategic local plan policy for development in the countryside.

5.113 TDC's representations on Policy B12 indicated that as written, the policy implies that development in the countryside or overlooking the coast is acceptable in principle. The District Council helpfully suggested that the addition of the text, *"This policy should be implemented in conjunction with Policy SP24 (Development in the Countryside) of the Thanet Local Plan 2020"*, would overcome the overly permissive nature of Policy B12 in the submission version of the Plan.

5.114 Concerning the views and vistas shown on the views and vistas map, as confirmed in the supporting "Birchington Neighbourhood Plan Assessment of Local Green Spaces, Including Views and Vistas, Final version 12th January 2021", the criteria for including each view and vista identified are that they are:

- a) publicly accessible places, where there is a specific reason for including the view or vista,
- b) each has been identified such as an overreaching far view across a seascape, countryside or river, a view to a historical or public interest building, glimpse of a key landscape or special streetscape feature; and
- c) there is a risk that during the Neighbourhood Plan period, that the view or vista will be compromised in some unacceptable way.

5.115 Each of the identified views and vistas is justified by reference to the criteria in the BNP Assessment of Local Green Spaces, Including Views and Vistas, to conform to the strategic imperative to meet housing need in the district, the TLP already provides for housing development to take place during the Plan period on land to the south and west of the settlement through Policy SP16. Inevitably, development on the scale envisaged in Policy SP16 will cause planning harm to some of the identified views currently identified and enjoyed in draft BNP Policy B12. Accordingly, it would not be appropriate for the BNP to include policies which might restrict or sterilise adopted strategic planning policy in the TLP. For this reason, I recommend that views from Points 5, 6, 8 and 11 be deleted from the policy. In addition, views from Points 10, 12 and 13 should be deleted as they are located beyond the neighbourhood area boundary. I recommend that Policy B12 should be amended as indicated by way of tracked changes in Appendix 2 and as shown made in Appendix 3 to this report. The Views and Vistas Map should be revised and the viewpoints re-numbered if the BNP is to proceed to referendum.

5.116 **Policy B13**

Policy B13: Proposed new development, including change of use of land and buildings in the ‘Green Wedge’ areas, will not be permitted, except for:

- a) outdoor sports and recreational uses, with minimal built development or new amenity public space.**
- b) agricultural uses**
- c) proposals which improve biodiversity or create new habitats**
- d) essential infrastructure works, subject to satisfactory mitigation to reduce the likely impact on the Green Wedge.**

5.117 For the reasons previously explained concerning draft policies, B10 – B12, Green Wedge policies provide a strategic planning policy function and are not appropriate for inclusion in a neighbourhood plan. I therefore recommend that if the Plan is to proceed to referendum, Policy B13 is deleted. The supporting policy text in the BNP should similarly be revised.

5.118 Policy B13a

Policy B13A: Development proposals which integrate sustainable drainage systems within green infrastructure and provide multifunctional benefits, will be supported, subject to all other policies in the Plan.

5.119 Policy B13a conforms to the national policy advice provided in the NPPF at paragraph 169 concerning Climate Change as acknowledged in the BCS. As to local strategic adopted planning policy, the BCS avers that Policy B13a conforms to Policy SP41 - Community Infrastructure, which advises that development will only be permitted when delivery of relevant and sufficient community and utility infrastructure is ensured. Policy SP41 also provides that where appropriate, development will be expected to contribute to the provision of new, improved, upgraded or replacement infrastructure and facilities.

5.120 There were no specific representations regarding this policy during the Regulation 16 consultation stages of the BNP. Southern Water’s comments regarding the Plan appeared more concerned with protecting the company’s reputation than commenting on emerging neighbourhood policy. The thrust of draft Policy B13a is already covered by the adopted TLP by Policy CC02 - Surface Water Management. New development is required to manage surface water resulting from the development using sustainable drainage systems (SuDs) wherever possible. This policy also requires “SuDs design, together with a robust long term maintenance plan should be included as an integral part of the master planning and design process for new development and should, wherever possible, incorporate multi-functional benefits for people and wildlife.....” Policy 13a would duplicate Policy CC02. As matters concerning waste including waste-water are essentially county council functions in relation to town planning and

not appropriate for a neighbourhood plan, for these reasons I recommend that Policy 13a should be deleted from the Plan if the Plan is to proceed to referendum.

5.121 Policy B13b

Policy B13b: Proposals for coastal development should be compliant with the policies contained in the South-East Marine Plan adopted by the Marine Management Organisation.

5.122 The South-East Inshore Marine Plan was published in June 2021, following adoption by the Secretary of State for Environment, Food and Rural Affairs under s51 of the Marine and Coastal Access Act 2009. This is a strategic regional, cross governmental marine plan, providing an integrated framework to shape and inform decisions on how the marine area is developed, protected and improved over the next 20 years. The South-East Marine Plan is said to implement cross-governmental marine policies at a local level, making them tangible and relevant, improving the wellbeing of coastal communities and supporting a stronger, more sustainable marine economy. The BCS states that Policy B13b conforms to paragraph 170 of the NPPF where in coastal areas, planning policies should take account of the UK Marine Policy Statement and marine plans. The national planning guidance explains that Integrated Coastal Zone Management should be pursued across local authority and land/sea boundaries, to ensure effective alignment of the terrestrial and marine planning regimes.

5.123 The adopted TLP pre-dates, although anticipates the publication of the South – East Inshore Marine Plan. There were no Regulation 16 consultation responses concerning Policy B13b.

5.124 In order that a more positive policy approach is provided to marine planning where relevant to coastal terrestrial development aligning town planning policy with published marine plan policies, I recommend the minor changes to Policy B13b, as shown in Appendix 2 to this examination report and shown as made in Appendix 3, if the BNP is to proceed to referendum.

5.125 Policy B14

Policy B14: Development proposals should, where relevant, be accompanied by a survey that catalogues the location, health and management plan for all trees and hedgerows on-site and between the site and land adjoining.

Hedgerows identified in the Plan Area that meet the criteria for protection set out in the Hedgerow Regulations 1997 (Schedule 1, Part 2) should be retained wherever possible or replaced with a suitable alternative.

5.126 The BCS advises that Policy B14 conforms to advice in paragraph 131 of the NPPF Chapter 12: Achieving well-designed places which explains that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. The NPPF states that in the context of proposals for new development, appropriate measures are in place to secure the

long- term maintenance of newly planted trees, and that existing trees are retained wherever possible. There are no express policy references in the NPPF to national policy for hedgerow protection.

5.127 The BCS does not cite any locally adopted strategic policy in the TLP relating to hedgerow protection, but it is generally consistent with TLP Policies SP26 and SP27. The NPPF supports the protection of green infrastructure in the context of mitigating the effects of climate change in paragraph 20 and as indicated in the BCS by development management Policy G106 - Landscaping and Green Infrastructure. This policy refers to major development proposals and proposals likely to have significant landscape implications. These should include a landscape survey which should demonstrate how the proposed development will provide landscaping and Green Infrastructure to enhance the setting of the development. Where possible and appropriate the policy seeks to enhance biodiversity and wildlife corridors and habitats which would be consistent with appropriate tree and hedgerow protection sought by Policy B14.

5.128 There were no specific comments made during the Regulation 16 consultations concerning Policy B14. In referring to hedgerow protection afforded by the Hedgerow Regulations 1997 (Schedule 1, Part 2), it is not clear from the supporting text or indeed from the supporting evidence base whether there are any hedgerows in the neighbourhood area which would meet the particular criteria set out in Schedule 1, Part 2 to the regulations. If the conditions were to be met, associated with any development proposals, then the Hedgerow Regulations 1997 would apply in any event.

5.129 In seeking the preparation of a management plan for trees and hedgerows on site and “between the site and land adjoining”, it may not be feasible for a developer to obtain permission from landowners who own and control such adjoining land to undertake surveys. Furthermore, as the purpose of such surveys and any associated management plan would inevitably be to safeguard and manage “green infrastructure” through a section 106 agreement linked to a planning permission, there would be no guarantee that adjoining landowners would be prepared to enter such agreements. Also, the Parish Council could not expect to be a party to these planning agreements as these would ultimately be determined by the developer and local planning authority.

5.130 To overcome the potential problems in operating draft Policy B14, as identified above, I recommend that the policy should be amended as shown by integrating Policy B14 and B15 in Appendix 2.

5.131 **Policy B15**

Policy B15: Proposals for new development which include the retention of all viable existing trees and hedgerows will be supported.

A net gain in the quantity and quality of suitable trees on all large new planning application sites will be expected, unless supporting design guidelines for the development state that this would be unachievable. In this scenario, the potential for providing new tree planting off-site should be explored.

New development proposals which would have an adverse impact on protected trees and those identified as Landmark trees in the plan area will not be supported.

- 5.132 The BCS advises that BNP Policy B15, like Policy B14, conforms to advice in paragraph 131 of the NPPF Chapter 12: Achieving well-designed places which explains that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. The NPPF states that in the context of proposals for new development, appropriate measures are in place to secure the long- term maintenance of newly planted trees, and that existing trees are retained wherever possible.
- 5.133 The BCS refers to development management Policy G106 - Landscaping and Green Infrastructure, rather than citing conformity with strategic adopted local plan policy SP26. TLP Policy G106 refers to major development proposals and proposals likely to have significant landscape implications. These should include a landscape survey which should demonstrate how the proposed development will provide landscaping and Green Infrastructure to enhance the setting of the development. Where possible and appropriate the policy seeks to enhance biodiversity and wildlife corridors and habitats which would be consistent with appropriate tree and hedgerow protection sought by Policy B14.
- 5.134 The TLP takes a balanced approach to maintaining the various landscape characteristics throughout the district as demonstrated by strategic policy SP26 – Landscape Character Areas which seeks to conserve and enhance Thanet's local distinctiveness. In order to maintain sweeping views and big skies, proposals for major development will need to be sensitively planned to maintain the landscape characteristics within the neighbourhood area. Whilst it is prudent to achieve a net gain in the quantity and quality of suitable trees on major development sites where achievable in the context of design guidelines to mitigate the effects of climate change associated with a greater degree of urban development, this may not always be feasible as recognised by the draft policy. Policy B15 is also generally consistent with TLP policy SP27- Green Infrastructure.
- 5.135 There were no specific comments in relation to this policy during the Regulation 16 consultation.
- 5.136 There appears to be considerable overlap between the ambitions of Policy B14 and Policy B15. Both relate to the survey, conservation and enhancement of green infrastructure associated with major development in the neighbourhood area. Accordingly, there would be merit in re-casting and integrating the two policies as recommended in Appendix 2 and shown as made in Appendix 3. If the Plan is to proceed to referendum, the supporting statements for Policies B14 and B15 will similarly need to be revised and integrated. The Policy numbering in the Plan would also need to be revised.

5.137 Policy B16

Policy B16: Landscaping schemes should be consistent with and reinforce local character areas where appropriate. Schemes which improve biodiversity or create new habitat features will be supported.

- 5.138 The BCS avers that Policy B16 conforms to the national planning policy advice on conserving and enhancing the natural environment contained in paragraph 174. The draft policy is also consistent with TLP Policy SP30.
- 5.139 As with Policies B14 and B15, Policy B16 attracted no Regulation 16 comments at the consultation stage.
- 5.140 This policy would contribute towards the objective of achieving sustainable development in the neighbourhood area if the Plan were to be made. I recommend no modification to this draft policy.

5.141 Policy B17

Development which incorporates, protects and enhances existing public rights of way including footpaths, bridleways, restricted byways and byways open to all traffic as well as cycle routes, or creates new safe routes particularly those serving schools and other community facilities, will be supported, subject to all other policies.

The loss of any public rights of way will be resisted unless it can be demonstrated that any diversion or alternative provision helps to improve or enhance safe and convenient routes for pedestrians, cyclists and horse riders.

- 5.142 The BCS notes that Policy B17 conforms to the NPPF guidance in relation to promoting sustainable transport at paragraph 104. This encourages Plans to incorporate opportunities to maximise sustainable transport solutions recognising that these will vary between urban and rural areas, and that this should be taken into account in both plan-making and decision-making.
- 5.143 BNP Policy B17 is recognised in the BCS as conforming to TLP SP43 - Safe and Sustainable Travel. The strategic policy guidance specifically requires development proposals to provide safe and attractive cycling and walking opportunities to reduce the need to travel by car in addition to protecting and enhancing existing public rights of way including footpaths, bridleways, restricted byways and byways open to all traffic as well as cycle routes, or by creating new safe routes particularly those serving schools and other community facilities. Policy SP43 also resists the loss of any public rights of way unless it can be demonstrated that any diversion or alternative provision helps to improve or enhance safe and convenient routes for pedestrians, cyclists and horse riders.
- 5.144 Regulation 16 consultation responses were submitted to TDC concerning Policy B17 by KCC and the Parmigan Group. KCC's comments were supportive of the draft policy, recognising that the policy had been amended to reflect the County Council's previous comments.
- 5.145 The TLP at paragraph 4.61 recognises that the NPPF states that planning policies should protect and enhance public rights of way (PROW) and access. It further states that Kent County Council's

Countryside and Coastal Access Improvement Plan identifies the need for planning policies to protect or enhance PROW.

5.146 The Ptarmigan Group's comments opined that Policy B17 does not fully conform with the requirements of Policy CM02 of the TLP which sets out some circumstances where the loss of community facilities may be accepted, pointing to the definition of community facilities as including PROW, as confirmed by the Local Plan at paragraph 17.5 (page 189). The circumstances in which Policy CM02 of the TLP might accept the loss of a PROW are already broadly encapsulated in the proposed wording of Policy B17, through alternative provision of a right of way which would deliver improved or enhanced safe and convenient routes for pedestrians, cyclists and horse riders.

5.147 In considering the draft policy and having regard to the national and local planning policy which seeks to protect or enhance PROW, I recommend minor modification to Policy B17 as shown by the tracked changes in Appendix 2 and as shown made in Appendix 3 if the Plan is to proceed to referendum.

5.148 **Policy B18**

Policy B18: In order to encourage safe movement of traffic and to promote the reduction in vehicle use and emissions, development and adaptations will be supported which include appropriate provision of features such as:

- **vehicle-free zones**
- **car club spaces**
- **charging points and dedicated parking spaces for electric vehicles**
- **sustainable off-road parking for vehicles, electric scooters, wheelchairs and storage for cycles**
- **schemes designed to reduce air pollution caused by vehicle emissions including proposals that support and encourage greater use of low- emission public transport**

Proposals will not be supported where the Local Planning Authority identify that additional on street parking will likely be detrimental to safety or impede access for public transport, emergency vehicles or any other service vehicles.

5.149 Policy B18 conforms to Chapter 9: Promoting Sustainable Transport, paragraph 110 and TLP's Policy SP43 regarding Safe and Sustainable Travel. Both strategic policies seek to reduce travel demand by private car and encourage new development to promote use of public transport as safe and convenient means of transport. Development applications are also expected to encourage "Active Travel" through increased use of walking and cycling to promote safe and sustainable travel.

5.150 There was little comment from consultees regarding this policy in the pre-examination consultation. KCC supported the policy acknowledging that the policy had been revised to take account of earlier comments made by the County Council. By way of a further comment, KCC expressed a desire that the policy should refer to the term "Active Travel", to stimulate local acceptance of the term associated with the delivery of new development as a means of encouraging sustainable local travel to assist health and

well-being and to reduce the harmful effects of carbon emissions and to reduce the effects of global warming. I recommend accepting KCC's suggestion of incorporating the term Active Travel in the policy, particularly as it already appears in the submission version of the Plan in Part A, Summary of Supporting Evidence, at page 84.

5.151 If the Plan is to proceed to referendum, I recommend that Policy B18 should be modified as shown by the tracked changes in Appendix 2 and shown as made in Appendix 3.

5.152 If these recommendations are accepted, the supporting policy text in the Plan will require amendment including a brief explanation of "Active Travel", cross referencing to the Summary of Supporting Evidence at page 84 of the Plan.

5.153 Policy B19

Policy B19: Except where land has been allocated for other uses within the TLP, development will not be supported if it results in the permanent irreversible loss of versatile and productive agricultural land, defined for the purposes of this policy as grade 3a and above, unless it can be clearly demonstrated that:

- 1) **the benefits of the proposed development outweigh the harm resulting from the loss of agricultural land**
- 2) **there are no otherwise suitable sites of poorer agricultural quality that can accommodate the development**
- 3) **there are no otherwise suitable sites available to facilitate the provision of essential infrastructure to meet the requirements of the Local Plan.**

5.154 Objective 8 of the BNP is: "To sustain agricultural production on our best and most versatile farmland and mitigate any losses." Whilst this might be a declared community objective, it has been superseded by adopted strategic planning policy confirmed by the TLP, SP16. Policy B19 acknowledges that this is the case.

5.155 On land beyond the site allocation in the TLP, Policy SP16, Policy B19 conforms to planning guidance in Chapter 15 of the NPPF: Conserving and enhancing the natural environment, at paragraph 174, by recognising the economic and other benefits of protecting and conserving the best and most versatile agricultural land, and of trees and woodland. The protection offered to agricultural land and soils is tempered; "in a manner commensurate with their statutory status or identified quality in the development plan;..." It is noteworthy that there is no strategic adopted planning policy in the TLP which offers an equivalent degree of protection to that ostensibly provided in the NPPF. In support of Policy B19, the BNP refers to TLP Policy SP24 as the relevant key Local Plan strategic policy. However, this policy has a strong permissive component recognising the need to support acceptable forms of development in the countryside, most of which are associated with land use diversification. Protection of agricultural land does not feature in this policy. Development management policy E16 in the TLP

provides some protection for the best and most versatile agricultural land and it appears that BNP Policy B19 has been derived from this policy.

5.156 In relation to Regulation 16 consultation comments, KCC largely accepted the policy text, but as the Local Highway Authority requested that the policy wording is amended to provide further clarity in relation to future transport-based projects such as the A28 Birchington, Acol and Westgate-on-Sea Relief Road. KCC recommended that the third criterion which might justify development on high grade agricultural land should read, “3. there are no otherwise suitable sites available to facilitate the provision of essential public infrastructure to meet the requirements of the Local Plan 'and/or relevant Local Transport Policy.’”

5.157 Regulation 16 representations made by Ptarmigan land concerning this policy sought greater clarity through an amendment to recognise the allocation of Land South-West of Birchington within the TLP Policy SP16 which could be achieved through the addition of the following text at the at the beginning of the policy: “Save for land allocated for other uses within the Thanet District Council Local Plan...”.

5.158 I recommend that if the Plan is to proceed to referendum, the policy text of Policy B19 should be modified as shown by the tracked changes in Appendix 2 and as made in Appendix 3 to provide greater clarity. The supporting text to the policy in the Plan should be amended to reflect these minor alterations.

5.159 **Policy B20**

Policy B20: Development of land for continued agricultural use and related purposes or to provide enhanced public rights of way in the Plan area will be supported but developers should demonstrate that appropriate mitigation is provided to protect the community from environmental and light pollution arising from the proposed development and that new or adapted buildings will be screened using appropriate materials.

5.160 The BCS notes that Policy B20 conforms to guidance in the NPPF in Chapter 15: Conserving and Enhancing the Natural Environment at paragraph 185 which seeks to ensure that new development appropriate for its location takes into account the likely effects of pollution on health, living conditions and the natural environment and the wider area of impacts of development through mitigation, protection of tranquil areas from noise and by limiting the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. In relation to conformity with strategic policy in the TLP, no strategic planning policies are cited in the BCS to which Policy B20 conforms. The BNP states that key relevant policies include TLP SP24, and development management policies SE08, E12, E15, E16 and HO17. It also cites the Birchington Landscape Assessment 2020 as part of the evidence base in support of this policy.

5.161 A representation made to TDC in respect of this draft policy by William Wraith, although not supporting loss of agricultural land, Mr. Wraith sought an approach achieving greater efficiency and density for

housing development in the neighbourhood area, for delivery of flats in preference to houses to reduce the need to allocate agricultural land for housing development.

- 5.162 It appears that BNP Policy B17 satisfactorily supports development which incorporates, protects and enhances public rights of way and which creates new safe routes, subject to all other policies in the Plan. Furthermore, criteria-based policy SE08 in the TLP, provides a more objective approach to assessing the acceptability of development where environmental harm arising from light pollution is likely associated with development proposals in the neighbourhood area. For these reasons, I consider Policy B20 would duplicate planning policy for development management if the BNP were to be made including this policy and that therefore this policy should be deleted if the Plan is to proceed to referendum.
- 5.163 If this recommendation is accepted, it would be necessary to revise the supporting text, paragraph 9 for Policy B19.

Policy B21

Policy B21: Development of new housing to meet local needs and deliver affordable housing in accordance with the required rate identified in the Local Plan will be supported, subject to other policy requirements.

Any diminution of the requirement contained in the Local Plan relating to any site in the Plan area will be resisted unless it can be clearly and openly demonstrated to the Parish Council that compliance with the policy (SP23) in the Local Plan would make the proposed development unviable.

- 5.164 BNP Policy B21 conforms to the development advice in the NPPF at paragraph 63 as identified in the NPPF concerning the delivery of affordable housing. In relation to strategic planning policy in the TLP, Policy B21 conforms to Affordable Housing Policy SP23. Policy B21 reflects Objective 9 of the BNP; “to ensure that there is an adequate provision of homes to meet the needs of local people.”
- 5.165 Regulation 16 representations were submitted to TDC by various parties. In relation to access for the elderly, the specialist needs of young people and the disabled, KCC sought assessment of need and appropriate provision via Policies B21 and B22 of the BNP. These policies relate more to the overall need for affordable housing and its appearance, rather than internal qualities concerning specialist needs that might more appropriately be relevant to Policy B23.
- 5.166 The Ptarmigan Group’s comments related to viability assessment and the role of the Parish Council in determining the quantum of affordable housing that might be appropriate in determining planning applications. In referring to the NPPF (paragraph 58) and National Planning Practice Guidance (PPG), the weight to be accorded to a viability assessment is to be determined by the decision maker, in this case TDC. Therefore, the Ptarmigan Group sought a modification to Policy B21 to reflect this position. TDC similarly sought compliance with its Local Plan policies noting that the viability of a proposed development is a matter for Thanet District Council as Local Planning Authority and that this should be

acknowledged in Policy B21. I agree with the representations made by the Ptarmigan Group and TDC and accordingly, recommend that the policy should be amended as shown by tracked changes in Appendix 2 and shown as made in Appendix 3, if the Plan is to proceed to referendum.

5.167 **Policy B22**

Policy B22: Affordable housing and any other non-market housing should be indistinguishable in design terms, including densities, from market housing. Individual units should be spread throughout any development to maintain a diversity of tenures.

5.168 The BCS confirms that Policy B22 conforms to Chapter 5: Delivering a sufficient supply of homes, paragraph 75. This policy expressly relates to strategic policy making planning authorities and so would not apply specifically to neighbourhood plans and their preparation. Nonetheless, neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies as described in the NPPF at paragraph 13. This provides a locus for the BNP to carry weight in policy preparation to assist in delivering strategic housing policy in adopted development plans, as for example SP16 in the TLP.

5.169 The BCS advises that Policy B22 conforms to Policy QD02 - General Design Principles, whereby the primary planning aim in all new development is to promote or reinforce the local character of the area and provide high quality and inclusive design and be sustainable in all other respects, to be achieved by well-designed proposals which respect and enhance the character of the area paying particular attention to context and identity of its location, scale, massing, rhythm, density, layout and use of materials appropriate to the locality.

5.170 Concerning the Regulation 16 representations submitted relative to this policy, KCC expressed concern that the specific housing needs of the elderly and vulnerable adults should be met within the Plan. It appears that the TLP Policy QD05 - Accessible and Adaptable Accommodation meets this ambition. The TLP explains in the supporting text to this policy that TDC requires a minimum of 10% of all new development should be designed to building regulation optional requirement M4 (2) accessible and adaptable dwellings. In respect of the new Building Regulation optional requirement M4 (3) wheelchair user dwellings, the Council will require a proportion of new dwellings to meet this standard based on local need relating to the number of households requiring wheelchair adaptable homes in suitable locations, that are currently on the Council's housing register. The Local Plan notes that this supports the general aim to improve the quality of life and health of the residents of the district and ensuring a high standard of design which aims to future proof new development by means of adaptability and achieving longevity of design.

5.171 Mr. William Wraith responding to this policy during the Regulation 16 consultation expressed a similar view to that of KCC that the housing design should meet the needs of the local population, particularly those with no, or inadequate housing. I note by reference to the TLP, the assessments made by the local planning authority during the preparation of the local plan found that there were no viability barriers to the deliverability of affordable housing to meet local disability needs, except in exceptional cases and despite the age profile of the local population which is expecting to need increasing assistance the Council expects to continue to meet anticipated needs through strategic policy SP02 – Implementation. Accordingly, it is not apparent that any specific demographic group requires a different policy approach regarding the delivery of affordable housing through the planning system associated with new development in Birchington in connection with this policy.

5.172 The policy would benefit from being directly linked to proposed development. However, in view of the overlap with and my assessment of Policy B23, my recommendation is that Policies B22 and B23 be combined into a single qualitative affordable housing policy as explained in the examination of Policy B23 below. This will require integrating the policy justification as well if the Plan is to proceed to referendum.

5.173 **Policy B23**

Policy B23: Development proposals that meet the criteria contained in “Building for a Healthy Life 2020” and respond positively to the Birchington Village-wide and Site Design Guidelines 2021 will be supported, subject to other policy requirements.

The quality of Affordable Housing should be no less than those being built for private sale to ensure that the overall character, environment and amenities of the area are sustained or enhanced.

Where it is not possible for developers to adhere to these requirements, the Design and Access Statement submitted with a planning application should explain the reasons for non-compliance and the proposed mitigation.

5.174 The BCS explains that like Policy B22, draft Policy B23 conforms to national planning policy in the NPPF, Chapter 5: Delivering a sufficient supply of homes at paragraph 75 and in respect of Local Plan policy, to development management policies QD02 - General Design Principles and QD03 – Living Conditions.

5.175 There were no policy specific Regulation 16 comments in relation to Policy B23.

5.176 The supporting statement for Policy B23 states at paragraph 8 on page 54 that this policy is intended to ensure that new housing is built to the highest possible design standards and that there is no differentiation between market housing and other tenures. There is therefore significant overlap with Policy B22 which expressly requires that affordable housing and other non-market housing be designed as indistinguishable from market housing.

- 5.177 BNP policy B21 is concerned with quantitative aspects of affordable housing delivery which relates well to Objective 9 of the BNP concerning affordable housing delivery. Policies B22 and B23 both relate to qualitative and design aspects of affordable housing to be provided by the planning system. There therefore appears to be considerable merit in moving Policy B22 from being a policy derived from Objective 9 – Housing Quantity, Allocation, Tenure and Affordability, to a policy under Objective 10 – Housing Quality.
- 5.178 In addition, Policy B23 attempts to ensure that the design principles set out in “Building for a Healthy Life”, (BHL) are included in designs for affordable housing and that these should also reflect the design guidance in the Birchington Village-wide and Site Design Guidelines 2021. The BHL updates the earlier widely used design tool, (Building for Life 12), prepared by Homes England, NHS England and NHS Improvement. The BHL now incorporates the findings of a three-year Healthy New Towns Programme led by NHS England and NHS Improvement.
- 5.179 Policy B23 is aspirational in seeking that the quality of Affordable Housing delivered should be no less than for dwellings built for private sale but recognises that there may be circumstances where this may not be feasible. In such circumstances the policy seeks that developers of affordable housing should explain why this is the case in design and access statements submitted as part of the planning application.
- 5.180 In view of the overlap with Policy B22 if the Plan is to proceed to referendum, I recommend that Policies B22 and B23 are integrated into a single policy relating to qualitative aspects concerning the delivery of affordable housing in the neighbourhood area as shown in Appendix 3. The Plan would require further policy re-numbering and a degree of revision to the policy justification to reflect the recommended integrated qualitative policy, concerning affordable housing delivery in the Plan.

Policy B24

Policy B24: Development that supports the local economy, including tourism-related businesses, is sustainable and located to maximise convenience and at a scale which is beneficial to the community and the character of the locality, will be supported.

- 5.181 Policy B24 is derived from Objective 11 of the BNP which is, “To enable appropriate commercial and business development that is proportionate and contributes to the economy and well-being of the village”. The BCS explains that Policy B24 conforms to the guidance in Chapter 6 of the NPPF: Building a strong, competitive economy: and in particular paragraph 84, “Supporting a prosperous rural economy”. The BCS advises that Policy B24 also conforms to Policy E07 of the TLP, a permissive policy related to the provision of Serviced Tourist Accommodation (Hotels, Guest Houses and B&Bs). In relation to strategic planning guidance in the TLP, the Plan cites policy SP36. Policy SP36 - Conservation and Enhancement of Thanet's Historic Environment. In addition, the following development management policies are also relevant:

- Policy E06 - District and Local Centres

- Policy E07 - Serviced Tourist Accommodation (Hotels, Guest Houses and B&Bs)
- Policy E08 - Self Catering Tourist Accommodation
- Policy E09 - Protection of Existing Tourist Accommodation
- Policy E12 - Quex Park

5.182 The supporting text to Policy B24 gives a clear description of the broad strengths and weaknesses of Birchington as a local centre, where the principal retail and services are established on Station Road.

5.183 The Regulation 16 responses were limited to a comment from KCC and Mr. Wraith. KCC pointed to the advantages which might flow from a greater promotion of public rights of way in the centre of the settlement to assist tourism and related commercial activity. Mr. Wraith expressed the need for increased local employment opportunities and a moderately sized business centre for use by offices, services and manufacturing units. He indicated that there would be an increased demand for such opportunities given the size of the proposed housing developments. He suggested that this should not be detrimental to existing businesses but would provide expansion opportunities. There are recognised opportunities for employment growth in the locality for a range of activities within the neighbourhood area at various spatial scales, including farm diversification opportunities.

5.184 If the Plan were to proceed to referendum and made, Policy B24 would assist in delivering sustainable development within the neighbourhood area. I propose no modification to Policy B24, if the Plan is to proceed to referendum.

5.185 **Policy B25**

Policy B25: Any changes in the Plan Area, including changes of use, new or replacement shop fronts and fascia's within commercial areas, that require planning consent, should be sensitively managed having regard to the character of the neighbourhood, particularly in the Conservation Area(s) and Areas of High Townscape Value.

Development which enhances the character of the public realm and/or cultural and leisure space within the commercial areas of the village will be supported.

5.186 At page 76 of the Local Plan, the text explains that although the conservation area in the centre of the village was designated in 1976, this has lacked an assessment of significance and as such has left the area vulnerable to possible inappropriate development proposals. As indicated by the BCS, Policy B25 conforms to national planning guidance in Chapter 15 of the NPPF: Conserving and enhancing the historic environment, at paragraph 190: where development plans are encouraged to set a positive strategy for the conservation and enjoyment of the historic environment, taking into account:

- a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;

- b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
- c) the desirability of new development making a positive contribution to local character and distinctiveness; and
- d) opportunities to draw on the contribution made by the historic environment to the character of a place.

5.187 Whilst not identifying a locally adopted strategic planning policy with which Policy B25 conforms, the BCS cites compatibility with development management policy, Policy HE02 - Development in Conservation Areas. Conservation area Policy B25 seeks to preserve or enhance the character or appearance of the built environment when considering commercial, cultural and leisure development proposals in the neighbourhood area. The policy also seeks to extend sensitive development management to such development proposals within the three Areas of High Townscape Value identified in the BNP.

5.188 TDC raised a comment in its Regulation 16 response concerning Policy B25 and Policy B26, seeking the clear identification of the areas covered by “.....the commercial areas.....Minnis Road.....Canterbury Road.....and at Minnis” should be clearly defined to clarify the areas to which these policies apply. I assume that the reference to Minnis in Policy B26 applies to “Minnis Bay”, which is defined as a local centre in the district’s retail hierarchy. To meet TDC’s concern, I recommend that Map 6 in the BNP Appendix Part B, which identifies both the conservation area and the Areas High Townscape Value should be amended to identify the commercial areas to which Policy B25 particularly applies and that the Policy text is cross referenced to Map 6, as I have further recommended in the modification of these policies.

5.189 I therefore recommend that if the BNP is to proceed to referendum, Policy B25 is modified as shown by the tracked changes in Appendix 2 and as made in Appendix 3.

5.190 **Policy B26**

Policy B26: Proposals for the change of use of premises from Use Class E to Sui Generis, within the commercial area and in Minnis Road, Canterbury Road and at Minnis will not be supported unless this replaces a facility lost elsewhere within the Plan Area.

5.191 The BCS confirms that Policy B26 conforms to the NPPF, Chapter 7: Ensuring the vitality of town centres at paragraph 86. The guidance advises that the vitality of town centres requires a positive approach to their growth, management and adaptation. Paragraph 86 requires that planning policies should respond to 6 criteria to achieve this goal. The first criterion requires a network and hierarchy of town centres to be identified which should be allowed to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allowing a suitable mix of uses, reflecting their distinctive character. However, Class E of the Use Classes Order 2020 permits a wide range of commercial uses within the class, where permitted development rights allow changes of use to occur

without recourse to the planning system for approval. The relaxation of activities within Class E permits a wide opportunity for change of use to occur without intervention by the planning system, but where planning permission is required for a particular sui generis use the local planning system might harm the local economy by requiring facilities “lost”, to be replaced elsewhere within the Plan area. This may be unreasonable if changed community preferences leading to a lack of viability and/or need for the facility have occurred.

5.192 A policy requirement seeking the marketing of a property to test the veracity for local demand for the continued use of premises where such a sui generis use is proposed may offer evidence to confirm lack of viable demand for a facility, but such a mechanism has not been proposed by this policy. An example of such a policy is to be found in the TLP within Policy E01. It would not be appropriate for the examination of the neighbourhood plan to introduce such a modification without this first having been tested by public consultation. Accordingly, to meet the positive approach for the growth, management and adaptation of the commercial centres identified in the BNP and the criteria in paragraph 86 of the NPPF, there is insufficient evidence to justify the need for proposed changes of use in the commercial centres from Class E to a sui generis use to require the replacement of a facility lost to be provided elsewhere within the Plan area. For the Plan to proceed to referendum, I therefore recommend that Policy B26 is deleted and references to it in the supporting text in the submission version of the BNP are removed.

5.193 Policy B27

Policy B27: Proposals for the appropriate temporary use of vacant premises in the commercial area and local shopping parades at Minnis Road and Canterbury Road will be supported.

5.194 The opportunities available for temporary changes of use for various activities are currently contained within Schedule 2, Part 4 of The Town and Country Planning (General Permitted Development) (England) Order 2015, most recently revised on 1st April 2023. Where such permitted development rights exist for a change of use, there is normally a requirement to notify the local planning authority of the date when the change of use took place but without the need to seek permission.

5.195 Policy B27 conforms generally to the national planning policy guidance contained in the NPPF, Chapter 6: Building a strong, competitive economy, at paragraph 81 through helping to create the conditions in which businesses can invest, expand and adapt by facilitating wider opportunities for appropriate temporary uses in vacant premises within the commercial centre and local shopping parades at Minnis Road and Canterbury Road. In relation to conformity with strategic planning policy in the TLP, the BNP cites Policy SP36 - Conservation and Enhancement of Thanet's Historic Environment. This is partially relevant. The BCS references development management Policy E06 in relation to conformity with the TLP in the absence of a fully relevant strategic policy in the Local Plan.

5.196 There were no policy specific comments made by the Regulation 16 consultees concerning Policy B27.

5.197 To the extent that there may be a need for the granting of temporary planning permissions from time to time for appropriate uses to re-use vacant properties in the commercial area of Birchington and the local shopping parades at Minnis Road and Canterbury Road, Policy B27 will contribute to maintaining the distinctive local character of the commercial area and the conservation area. No alterations to the policy are necessary if the Plan is to proceed to referendum.

5.198 Policy B28

Policy B28: Proposals for the development of facilities for health, well-being, social and long-term care services that are sustainable and located to maximise access and amenity for residents will be supported.

5.199 In the supporting text justifying the inclusion of Policy B28 within the Plan, according to the 2011 census, Birchington had the highest percentage of people who self-reported as having a long-term illness or disability in Kent. The Plan states that this is significantly higher than the England average. Also, the parish of Birchington has the highest percentage of over 65's in the county. The plan notes that health inequality is a matter that the community is seeking to redress in part by the neighbourhood plan through the provision of facilities that will help to improve health and well-being, and by better connectivity and access to services across the parish.

5.200 Concerning the quality of local health provision, the BNP further notes that the Care Quality Commission (CQC) rated Birchington's Medical Centre as 'Requires Improvement', although the local care homes and Kent County Council services were generally rated as 'Good'. Against this background, unsurprisingly Objective 12 of the BNP is: "To support development of facilities that help to sustain, improve and enhance residents' access to health, social and long-term care facilities."

5.201 The BCS cites the NPPF, Chapter 8: Promoting healthy and safe communities, including social, recreational and cultural facilities at paragraph 96 to which Policy B28 conforms by achieving the delivery of public service infrastructure, including hospitals by local planning authorities working proactively and positively with health delivery partners to resolve key planning issues early in the procurement process, before planning applications are submitted.

5.202 The BCS further advises that BNP Policy B28 conforms to strategic Policy SP38 of the TLP. This seeks to promote, protect and improve the health of Thanet's residents, and reduce health inequalities by bringing forward accessible community services and facilities; safeguarding existing community services and facilities; and by safeguarding or providing open space, sport and recreation facilities.

5.203 Policy B28 was supported by KCC in its Regulation 16 representations. These emphasised the changing nature of post-pandemic adult social care needs noting that they may not be met by the provision of physical buildings / facilities alone. KCC's representations highlighted five priority areas to increase capacity as identified by KCC adult social care in the area as follows;

- Assistive technology and home adaptation equipment – to enable people to continue to live independently.
- Specialist Housing – Adult Social Care will purchase nomination rights from registered housing providers.
- Adaptations and improvements to existing community facilities to enable all to be able to access these.
- Provision of sensory facilities.
- Provision of changing place facilities to enable those with profound physical and mental health issues (and their carers) to remain active and as independent as possible.

5.204 Representations from Mr. William Wraith pointed to the need for improvement to provide adequate medical facilities in the neighbourhood area, echoing the qualitative concerns expressed by the CQC.

5.205 Policy B28 seeks to support sustainable development to improve health care in the Parish and reduce inequalities. If the plan is made, this will encourage improvements to be delivered through the planning system at the local level. I propose no modifications to the draft policy if the Plan proceeds to referendum.

5.206 Policy B29

Policy B29: Proposals for the development of indoor and outdoor educational facilities that are sustainable and located to maximise access and opportunities for students and pupils, will be supported.

5.207 The BCS explains that Policy B29 conforms to national planning guidance in the NPPF at Chapter 8: which promotes healthy and safe communities, including social, recreational and cultural facilities. The key guidance is paragraph 93 which advises that policies should:

- a) plan positively for the provision and use of community facilities and other local services to enhance the sustainability of communities and residential environments; and
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community.

5.208 Policy B29 also reflects and conforms to the local strategic planning guidance in the TLP in policy SP42 - Primary and Secondary Schools, whereby the Council supports the expansion of existing and development of new primary and secondary schools in the district to meet identified needs and pledges to work with Kent County Council in identifying, allocating and safeguarding other sites as required.

5.209 The only policy specific representation to Policy 29 was from Mr. William Wraith who was supportive of the draft policy who opined that the location currently proposed located next to a busy junction would cause significant traffic problems and be a danger to the children. He suggested a location next to the proposed playground situated towards the junction with Minnis Road should be preferred for safety reasons. To conform with national guidance in the NPPF which promotes healthy and safe communities the location of educational facilities would need to be a primary consideration in locational choice to deliver sustainable development. The location of the proposed new school will be a matter to be determined through the consideration of the planning application for development of the major development to the south-west of the current settlement boundary.

5.210 I consider Policy B29 as drafted would contribute to assist in delivering sustainable development in the neighbourhood area if the BNP proceeds to referendum and that no modifications are necessary to it.

5.211 Policy B30

Policy B30: Proposals that provide facilities at schools or other educational premises for use by the wider community outside of normal operating hours will be supported subject to an assessment of the impact on neighbouring residents being submitted.

5.212 The BCS notes that this policy also conforms to guidance in the NPPF in paragraph 93, (as Policy B29) and with TLP Policy SP38, (as Policy B28) by improving the health of Birchington's residents and reducing inequalities by bringing forward accessible community services and facilities, thus contributing to the attainment of BNP Objective 13, by supporting proposed education facilities that provide equal and accessible opportunities for learning.

5.213 The draft policy was supported by KCC in its capacity as local education authority, noting that decisions to incorporate facilities for use by the wider community outside operating hours will tend to rest with the independent Academy Trusts that manage the schools, as also recognised in the supporting text to this policy in the BNP. KCC recognised that this policy could enable an additional income stream for schools and was supportive of proposals to accommodate community sports facilities as part of the new planned two form entry primary schools in Thanet.

5.214 Referring to Adult Education, KCC's Community Learning and Skills service focus for infrastructure in Thanet, Policy B30 would assist in meeting local needs for delivery of education and training associated with both the covid pandemic and migration which present local barriers to community engagement.

5.215 Again, this policy would assist in meeting demonstrable local need, and would contribute to the delivery of sustainable development in Birchington over the Plan period, if the BNP were to be made. The draft policy requires no modification if the BNP is to proceed to referendum.

5.216 Policy B31

Policy B31: Proposals that would result in the loss of recreational and other educational facilities at schools, including school playing fields, will not be supported, unless it can be clearly demonstrated that the operation of those facilities is no longer necessary or viable and that appropriate alternative uses have been explored and rejected.

- 5.217 The BCS cites paragraph 93 of the NPPF in terms of Policy B31 conforming to national planning policy. The BNP refers to compliance with SP42 in relation to conformity with strategic local plan policy, whilst the BCS refers only to development management policy G105 in this context.
- 5.218 The only Regulation 16 comments concerning policy B31 were raised by KCC. In the event that educational facilities were no longer required, the county council indicated that it would first seek to utilise section 106 monies to support the provision or re-purposing of facilities/buildings local to support delivery of KCC adult social care services if a need was demonstrated.
- 5.219 In considering BNP Policy B31, there is significant overlap with TLP local plan policy G105. In the event that the Plan was made including Policy B31 as currently drafted, it would take precedence over Policy G105 for such development in the neighbourhood area, as being the most up to date policy. I have concerns that Policy B31 is not as sufficiently developed as Policy G105 where the criteria provide a greater level of control, dependent upon the proposed reuse of redundant facilities and on the particular characteristics of the proposal. This degree of development control afforded through Policy G105 could in certain circumstances be eroded in the neighbourhood area through the implementation of Policy B31. For this reason, I recommend that Policy B31 should be deleted from the BNP. If this recommendation is accepted and the BNP proceeds to referendum the removal of draft Policy B31 would not require alteration to the supporting policy text in the BNP.

5.220 Policy B32

Policy B32: Development that sustains or helps to increase the viable use of existing community leisure and recreation facilities or contributes towards eliminating the shortfall of provision as set out in the Leisure and Recreation Assessment 2021, will be supported.

- 5.221 Policy B32 and B33 have been prepared to meet Objective 14 of the BNP which seeks to provide, maintain and enhance high quality indoor and outdoor leisure, recreational facilities and services to meet the needs of the whole community and the visitor economy. The BCS confirms that Policy B32 conforms to the NPPF, Chapter 8: Promoting healthy and safe communities, including social, recreational and cultural facilities at paragraph 92, through promoting social interaction, community cohesion, and enabling and promoting well-being and supporting healthy lifestyles. At the local level, the BCS notes that Policy B32 conforms to TLP Policy SP38 – Healthy and Inclusive Communities.
- 5.222 Specific Regulation 16 comments concerning Policy B32 were limited to representations by KCC concerning the lifestyle and health benefits that would accrue to the local population if appropriate and proportionate Active Travel measures, encouraging walking and cycling improvements were

included in the Plan. Encouraging Active Travel as suggested in various consultation comments by KCC and specifically through development which is likely to sustain or help increase the viable use of existing community leisure and recreation facilities, or which contributes towards eliminating the shortfall of provision Policy B32 would assist the health and well-being needs of the community as acknowledged in the supporting statement.

5.223 The supporting statement in the BNP for policies B32 and B33 reflects need as set out in the Leisure and Recreation Assessment 2021 prepared by Strategic Leisure Limited, (SLL), an independent, specialist sport, leisure and physical activity consultancy. The Leisure and Recreation Assessment 2021 provided a series of recommendations to assist delivering the improvements identified to help meet local leisure and recreation needs. Whilst these are summarised at page 93 of the report, they are not articulated in developing policy B32. For clarity I recommend that these criteria should be included in Policy B32 as indicated in the policy by tracked changes in Appendix 2 and shown as made in Appendix 3, if the Plan is to proceed to referendum.

5.224 **Policy B33**

Policy B33: Proposals that would result in loss of, or cause significant impairment to, a recognised community, leisure or recreation facility will be resisted unless it can be clearly demonstrated that the operation of the facility is no longer necessary or viable and that other possible community uses have been explored and rejected.

5.225 The BCS notes that Policy B33 conforms to the NPPF, Chapter 8: Promoting healthy and safe communities, including social, recreational and cultural facilities at paragraph 93 by guarding against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. As to conformity with local policy it complies with TLP Policy CM02 - Protection of Existing Community Facilities.

5.226 There were no consultation comments regarding this policy during the Regulation 16 consultation phases of the Plan.

5.227 Policy CM02 of the adopted local plan provides similar, but wider protection covering all community facilities unlike BNP Policy B33, where land use protection extends to community leisure and recreation facilities only.

5.228 It is apparent that the proposed Policy B33 would duplicate Local Plan policy CM02. Consequently, I recommend that Policy B33 should be deleted from the Plan, together with the related supporting text, if the BNP is to be taken forward to referendum.

5.229 There may be other means by which the community may seek to protect valued social, recreational and cultural facilities within the neighbourhood area separate from the planning system such as through designation of these as Assets of Community Value, but this would be beyond the scope of this examination report.

5.230 **Policy B34**

Policy B34: Development of the site allocated for development (Policy SP16 within the Local Plan) will be supported where the layout, design, height, scale and massing of housing and the orientation of streets and buildings reflect the topography of the site. New housing adjacent to the settlement and existing properties should achieve a seamless transition in height and mass and be consistent with the appropriate Character Area¹.

Developers will be expected to comply with the Village-wide Design Guidelines and Site Guidance and Codes 2021.

¹ Character Area means the five parts of Birchington that have been categorised in the Village Wide Design Guidelines as containing different building and layout characteristics. See Map at para. 6.1(a).

5.231 Objective 15 of the BNP is to support development of sites allocated within the Development Plan that are consistent with the community's wish to "build a village not a housing estate". Policy B34 sets out the broad design requirements to be applied in formulating the overall delivery of a major extension to the village of Birchington that will integrate the new development with the existing settlement in terms of physical appearance and maintaining the distinctive character of the village. The BCS points to conformity of the objectives of Policy B34 with the NPPF policy requirements as set out in Chapter 5: Delivering a sufficient supply of homes, where paragraph 73 recognises that the supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as significant extensions to existing villages, provided they are well located and designed, and supported by the necessary infrastructure and facilities.

5.232 In conforming with strategic national planning policy, the BCS confirms that Policy B34 provides the planning guidance for the development of the urban extension to Birchington envisaged in TLP Policy SP16 to contribute to housing supply in the district to 2030, through the development of a masterplan on land allocated for this purpose to the south-west of Birchington for up to 1,600 new dwellings, with an approximate average density of 35 dwellings per hectare. This Local Plan policy dictates that proposals will be judged and permitted only in accordance with a masterplan for the whole site which provide the following:

" 1) a minimum of 12.8 ha of open space;

2) a fully serviced area of 2.05 ha (to be provided at the cost of the developer) to accommodate a new two-form entry primary school and its construction in a location and in a form agreed with the County Council;

3) a range of community facilities in accordance with Policy SP14, including small scale convenience retail provision to serve the day-to-day needs of the residents;

- 4) provision for the expansion of medical services at the Birchington Medical Centre to cater for the additional needs created by the development;
- 5) linkages to new and existing public transport infrastructure, including bus and rail services;
- 6) a new link road to serve the development and extending from Minnis Road and the A28, and A28 to Manston Road including new junctions on A28/Minnis Road and Acol Hill/Manston Road;
- 7) access on to Park Lane and a footway connection to the entire frontage to connect to the existing footway in Park Lane near to the access with Brunswick Road and
- 8) a proportionate contribution to necessary off-site highway improvements in accordance with Policy SP47”.

5.233 TLP Policy SP16 also requires that:

“Masterplanning will be informed by and address the following:

- 1) measures to the preserve the listed buildings Gore End Barn and Upper Gore End Farmhouse and their setting, including the setting of Quex Park
- 2) measures to integrate the development within the landscape to enable a soft edge between the site and the open countryside;
- 3) pre-design archaeological evaluation;
- 4) noise mitigation for any development near the northern edge of the site which is adjacent to the railway line;
- 5) The capacity of any utility services and infrastructure and any need (and provision of) improved or additional infrastructure (as may be advised or reasonably required by service providers)

All development proposals must be planned and implemented in a coordinated manner and accompanied by an infrastructure delivery and phasing plan.

Proposals will be accompanied by a Transport Assessment which shall:

- 1) assess the impact of development on the local road network;

2) identify measures to promote multi-modal access, including footway and cycleway connections and an extended bus service accessible to the residential development and rail linkages”

5.234 The Regulation 16 consultations relating to the submission version of the BNP produced comments from the Ptarmigan Group. As with its Regulation 14 consultation response, the developer stated that it did not have any general issues with the aspirations of providing Site Design Guidance and Codes, although it had expressed concern that earlier specific comments that had yet to be considered.

5.235 The Village-wide Design Guidelines and Site Guidance and Codes (2021) referred to in Policy B34 have been carefully prepared and show a considered understanding of the way in which Birchington has developed over the years, how it has evolved as a settlement within its wider context within Thanet and how it functions today. The design guidelines seek to facilitate further development of the settlement through respecting the character and local distinctiveness of Birchington and I have little doubt that the approach adopted is likely to achieve the ambition that the community wishes to foster of a seamless transition between existing and new development where the layout, design, height, scale and massing of housing and the orientation of streets and buildings reflect the topography of the site. I endorse the earlier comments of the District Council in relation to its Regulation 14 comments, that the Birchington Site Design Guidance and Codes prepared and developed in partnership with AECOM, (see page 57 of the Neighbourhood Plan Consultation Statement: Annex 1) having regard to national, regional and local policy and guidelines, and good practice. I also note that community feedback and aspirations have informed the preparation of this guidance to ensure that the contents are applicable locally and as such the document is considered reliable and robust.

5.236 In combination with strategic policy SP16 which Policy B34 supports, the BNP will assist in delivering sustainable development informed by Birchington Site Design Guidance and Codes 2021 as envisaged by the Plan.

5.237 I recommend that if the BNP is to proceed to referendum, no modifications are necessary to Policy B34.

5.238 Policy B35

Policy B35: The development of allocated site SP16 will be supported where it provides a mix of housing in the proportions set out in the Birchington Housing Needs Assessment 2020: (or any subsequent revision).

Applications should demonstrate how this housing mix will be delivered within the overall master plan and subsequent phasing plans for the development.

5.239 National Planning Guidance - Housing Mix Policy

5.240 The BCS explains that draft Policy B35 conforms to national planning guidance in the NPPF contained in Chapter 5: Delivering a sufficient supply of homes at paragraph 62 which requires planning policies to assess housing need across the spectrum of those who need housing, “.....including but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes.....”. The context for paragraph 62, is set in the preceding two paragraphs of the NPPF, which indicate that housing assessment and policies, in supporting the Government’s objective of significantly boosting the supply of homes to meet these needs are assessed to determine the minimum homes needed reflecting current and future demographic trends and market signals. This guidance also requires that in addition to the *local* housing need, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing required.

5.241 Paragraph 66 of the NPPF is also relevant in the context of draft Policy B35. This guidance reflects the broad position at Birchington where, the strategic policy-making authority has established a housing requirement figure for the district which shows the extent to which their identified housing need can be met over the plan period and where strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations. The guidance also advises that once the strategic policies have been adopted, these figures should not need retesting at the neighbourhood plan examination, unless there has been a significant change in circumstances that affects the requirement.

5.242 Current Local Plan Housing Mix Policy Guidance and application

5.243 In relation to local strategic planning policy, the BCS cites TLP Policy SP22 which provides guidance as to the type and size of dwellings in the district as relevant. This policy expects proposals for housing development to provide an appropriate mix of market and affordable housing, having regard to Strategic Housing Market Assessment (SHMA) recommendations, as may be reviewed or superseded. At present, the Local Plan Guidance at paragraphs at 3.29 and 3.30 for example, notes that,

“.....in aiming to deliver substantive regeneration and economic strategies the housing role in turning round economic performance is both to provide appropriate and attractive housing for higher earners and facilitate retention of local young families.

The SHMA notes that the housing stock is characterised by a combination of dense provision, overprovision of smaller flats and flatted buildings, and a shortage of larger homes of three bedrooms and more. It states that it is important that future development policy prioritises a rebalancing of stock to incentivise the provision of family homes and control the expansion of "flattening" of larger homes, while at the same time recognising solid demand for smaller homes including from young single people and increasing numbers of older single people.”

5.244 Paragraphs 9.27 – 9.30 of the SHMA (2016) explains that there are a range of factors which influence demand for different sizes of homes and that the SHMA had modelled the needs for different sizes of market and affordable homes over the period from 2011-31 based on informed assumptions of how the size and structure of the population was expected to change, and an analysis of how households of different ages occupy homes.

5.245 In applying Policy SP22 on housing mix, the Local Plan at paragraph 3.33 states that in applying Policy SP22, the Council will have regard to the relevant conclusions of the Strategic Housing Market Assessment (2016) or any relevant evidence serving to refresh or update it. At present, in Tables 5 and 6 in the Local Plan has set the dwelling mix proportions for market and affordable housing as follows:

Table 5 - Mix of market housing by dwelling type (built form)

	Detached	Semi-detached	Terraced	Flat
Thanet	25%-30%	25-30%	20-25%	20-25%

Table 6 - Mix of affordable housing by dwelling type (built form)

	Detached	Semi-detached	Terraced	Flat
Thanet	0-5%	25-30%	20-25%	45-50%

5.246 The SHMA recommended the following sizes of dwellings needed for **market housing** (including a higher requirement for 2-bedroom homes, reflecting the result of a growing older population and younger households living in smaller households) as set out in the Local Plan across the district is:

- 1-bed properties: 10-15%
- 2-bed properties: 40-45%
- 3-bed properties: 30-35%
- 4-bed properties: 10-15%

5.247 For **affordable housing**, the SHMA recommended dwelling mix is across the district is :

- 1-bed properties: 35-40%
- 2-bed properties: 30-35%
- 3-bed properties: 20-25%
- 4-bed properties: 5-10%

5.248 Proposed BNP Housing Mix Policy Guidance and Application - Birchington

5.249 As explained in the supporting text to Policy B35, the submission version of the BNP the Parish Council commissioned a separate Housing Needs Assessment (HNA) for Birchington which was undertaken by

AECOM. This assessment, published in December 2020 drew attention to the findings of this assessment at Table 4-13 in the HNA which describes “future potential misalignments” of supply and demand for housing. The report suggested that due to demographic shifts, new residential development in the settlement should provide the following mix of dwelling sizes as identified in the “Recommended split” in housing mix to 2031 (for combined market and affordable tenures) in the output table below:

Table 4-13: Future potential misalignments of supply and demand for housing, Birchington

Number of bedrooms	2011	2031	Change to housing mix	Recommended split
1 bedroom	437	1,001	564	31.5%
2 bedrooms	2,111	2,455	344	19.2%
3 bedrooms	1,690	2,295	605	33.8%
4 bedrooms	539	710	171	9.6%
5 or more bedrooms	159	264	105	5.9%

Source: AECOM Calculations

5.250 The BNP HNA is not directly compatible with the SHMA, as indicated in paragraph 8 of the supporting policy text for Policy B35. The methodology employed in AECOM’s HNA based on a life-style and demographic assessment differed from the earlier assessment of housing need prepared as evidence for the Thanet Local Plan by GL Hearn in 2016, (Thanet SHMA), which informed the preparation of TLP Policy SP22. The analysis undertaken by AECOM nonetheless provides an indication of the likely need for different types and sizes of homes based on demographic change. The conclusions of the HNA, point out that there are other factors that need to be assessed which influence housing choice, such as quality, size and age and layout and adaptability of the existing stock. The AECOM HNA is predicated on the appropriateness of a “life-stage” modelling exercise, which assesses the sizes of existing dwelling stock occupied by different age groups and extrapolates anticipated growth and decline of those age groups over the Plan period, to understand the dwelling mix which should be built, to meet the demographic needs anticipated at the end of the Plan period. The HNA assumes that the occupation of the current stock by the current population will continue and that therefore the model is not able to demonstrate the potential needs of local people who leave the area due to lack of options to meet their needs, such as larger family dwellings. Similarly, it would appear that the model would not identify the needs of families seeking to migrate into the neighbourhood area, who might engender new community capital and economic growth within the neighbourhood area, who would need larger family dwellings if they were to settle in the community; a need that is recognised in the supporting policy text in the TLP to Policy SP22.

5.251 The regulation 16 consultation comments on housing mix were principally from the Ptarmigan Group who commented that the Policy B35 proposed housing mix varied significantly from the housing mix identified by Policy SP22 of the TLP, noting that Policy SP22 advocates for a higher ratio of houses to flats. The developer expressed the view that the evidence base did not adequately justify a departure

from the TLP and as drafted, the policy represented a material and unjustified lack of conformity with the TLP.

5.252 Strategic Housing Market Assessment Update - Housing Mix Policy Guidance -2021

5.253 Thanet District Council commissioned GL Hearn supported by Justin Gardner Consulting to carry out a Strategic Housing Market Assessment Update of the TLP once the Local Plan had been adopted.

5.254 Unlike the previous reports examining housing need in Thanet, the Government's standard methodology, was introduced in 2021 as set out in the current NPPF for assessing housing need. The updated assessment published in August 2021, (which was after the AECOM HNA was published in December 2020), identified the need in the district to 2040. This assessment carefully considered whether it was appropriate to use standard method of determining housing need as advocated in the current NPPF by reviewing the extent to which exceptional circumstances might exist to warrant use of alternative methods, but on balance concluded that the standard method was appropriate. The Strategic Housing Market Assessment Update appears to be a rigorous examination of demographic and social trends for the period up to 2040 and now forms the most authoritative and up to date assessment of housing need in the district.

5.255 The modelled outputs from the update assessment considered the likely required housing mix for housing within each of the three broad tenures for Thanet, being Market housing, Affordable home ownership and Affordable housing (rented). The assessment of housing mix was provided in two tables reflecting local and regional occupancy data respectively, from which a combined assessment was suggested. The assessment demonstrated that housing need in the district is, *".... focussed on 1- and 2-bedroom homes but also showing over a quarter of those registered as requiring 3+- bedroom homes (including 8% in the 4+-bedroom category – analysis of current stock suggested only 3% of socially rented homes in the district have 4- or more bedrooms)."* The assessment also commented that, *"for all tenures the modelled outputs of need are for larger homes when regional occupancy patterns are used and suggests that the different profile previously shown is not just due to the different demographic make-up of the district"*.

5.256 The conclusions drawn were that across the district the appropriate target housing mix ranges to be provided through new development for the three principal tenure groups were as follows:

Market housing:

- 1-bedroom: 0-10%
- 2-bedrooms: 25-35%
- 3-bedrooms: 40-50%
- 4+-bedrooms: 15-25%

Affordable Home Ownership

- 1-bedroom: 20-30%
- 2-bedrooms: 35-45%
- 3-bedrooms: 20-30%
- 4+-bedrooms: 5-15%

Affordable rented housing

- 1-bedroom: 30-40%
- 2-bedrooms: 30-40%
- 3-bedrooms: 20-30%
- 4+-bedrooms: 0-10%

5.257 *Conclusions concerning Policy B35.*

5.258 Essentially, current housing mix policy covering development in the neighbourhood area is applied on a district wide basis across the district council's administrative area. The local plan anticipates that from time-to-time housing mix policy may require review and updating during the life of the plan. This has occurred following the preparation of evidence for the BNP. National planning policy as expressed in the NPPF has also changed since the preparation of the BNP's evidence on housing mix through the introduction of the Standard Method for undertaking housing need assessments in 2021. The BNPs assessment predating the current NPPF guidance was undertaken on a different life-style demographic basis. In considering the appropriate methodology appropriate to undertake the updated housing needs assessment for Thanet in 2021, the consultants undertaking this work concluded that the Standard Method approach should be used.

5.259 The methodology used in the updated district-wide report is preferred, as it uses slightly more up to date data and is based on a wider geographic approach in reflecting both housing need and market demand, than at a localised neighbourhood area scale.

5.260 Furthermore, the housing mix figures presented in the draft policy would not be consistent with those supporting adopted local plan policy in SP22 and do not accord sufficiently with the housing mix ranges as shown in the more recent district-wide update report. For these reasons, if the Plan is to proceed to referendum, I recommend that Policy B35 should be deleted, together with references to it in the supporting text.

5.261 *Policy B36*

Policy B36: Proposals for protection of public rights of way and provision of new safe and attractive pedestrian and cycle routes across the whole site that serve the wider community, providing links to Quex Park, Minnis Bay, the railway station, medical centre, designated cycle routes and to the commercial centre of the village, will be supported.

- 5.262 The BCS states that Policy B36 conforms to the NPPF, Chapter 9: Promoting sustainable transport, paragraph 112, which explains the consideration to be given to development proposals, the initial priority should be given to pedestrian and cycle movements, within the scheme and with neighbouring areas; and then so far as possible, to facilitating access to high quality public transport, with layouts that maximise the catchment area for public transport services, and appropriate facilities that encourage public transport use. The policy also requires the needs of the disabled to be addressed for all transport modes; to achieve through placemaking areas which are safe, secure and attractive and which respond to local character and design standards, including convenient electric vehicle charge points, allow for efficient delivery of goods, and access by emergency services.
- 5.263 In relation to local adopted strategic planning policy, Policy B36 conforms with TLP Policies SP 43 - Safe and Sustainable Travel. This policy seeks to manage travel demand by promoting use of public transport modes, walking and cycling as safe and convenient.
- 5.264 Representations were made by Kent County Council in support of this policy which it considered effective for development management purposes. Further support was received from Mr. Cannon who liked the cycle route proposals and who hoped further information on the details would be shared with the community prior to the details being finalised.
- 5.265 As to modifications to the policy, I believe it would be helpful for avoidance of doubt if the site referred to in the policy is specified, otherwise I have no comments regarding BNP Policy B36. The proposed alteration is shown by tracked changes in Appendix 2 and shown as made in Appendix 3.

5.266 **Policy B37**

Policy B37: Proposals for the development of a new 2-form entry primary school at a location that would be sustainable, safe and accessible whilst optimising general primary school catchment areas, will be supported.

- 5.267 The BCS notes that Policy B37 conforms to NPPF guidance in Chapter 8: Promoting healthy and safe communities, including social, recreational and cultural facilities. Paragraph 95 is particularly relevant, encouraging the provision of sufficient school places to widen choice in education and to provide a choice to meet the needs of existing and new communities. Local planning authorities are expected to take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. The positive planning approach expected by this policy is that local planning authorities should work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted and subsequently give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications.
- 5.268 Regarding locally adopted strategic planning policy, the BCS cites Local Plan Policy SP42 - Primary and Secondary Schools, to which BNP Policy B37 conforms supporting the expansion of existing and development of new primary and secondary schools in Thanet. Policy SP42 specifically identifies the

need for a two-form entry primary school in Birchington to provide capacity for planned future growth in association with the strategic development site to the south-west of the settlement boundary, promoted through Policy SP16.

- 5.269 Responding to the Regulation 16 consultation, KCC Community and Infrastructure Services welcomed the inclusion of Policy B37, which supports KCC's aspiration for a new 2 form entry primary school at Birchington to mitigate the impact of proposed housing growth. The consultation response noted that there remained concerns regarding the location of the new school and that KCC, as Local Highway Authority, will address highway access and safety when assessing the proposed primary school site. There were no other policy specific comments regarding this policy during the Regulation 16 consultations.
- 5.270 This policy is integral to the delivery of the strategic expansion of the settlement as promoted in the adopted Local Plan through Policy SP16. I recommend no modification to it.

Summary of findings

- 6.1 I set out the summary of my findings below.
- 6.2 Only a draft neighbourhood Plan that meets each of a set of basic conditions can be put to a referendum and be made. These basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The relevant basic conditions are set out below:
- 6.3 *a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).*
- 6.4 Subject to the recommended modifications in this examination report being accepted the BNP will conform to condition a) through supporting the delivery of strategic policies contained in the adopted Thanet Local Plan Core Strategy and strategic policies within the Development Plan in accordance with guidance in the NPPF 2021 at paragraph 29, by not promoting less development than set out in the strategic policies for the area, or by undermining those strategic policies.
- 6.5 *d. the making of the neighbourhood plan contributes to the achievement of sustainable development.*
- 6.6 The BNP will contribute to the delivery of sustainable development within the Parish as indicated in this examination report in so far as the policy recommendations in this examination report confirm that policies are supported by sufficient and proportionate evidence. Consideration of these to development proposals will assist in delivering sustainable solutions in the neighbourhood area.

- 6.7 *e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).*
- 6.8 As demonstrated by the consideration of the draft policies in the submission draft version of the BNP by reference to the Basic Conditions Statement and consideration in this examination, subject to the recommended policy changes being incorporated, and if made, the BNP will be in general conformity with the strategic policies contained in the development plan for the area and will not undermine those policies.
- 6.9 *f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.*
- 6.10 As demonstrated in this examination report, the supporting assessments made by TDC in relation to the submission version of the BNP, indicate that the policies in the BNP are compatible with European Union obligations, as incorporated into UK law, and appear legally compliant. The relevant Directives are:
- Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment. (The Strategic Environmental Assessment (SEA) Directive); and.
- Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive).
- 6.11 Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) prescribes a further basic condition in addition to those set out in the primary legislation, that in the making of the neighbourhood plan, the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (which sets out the habitat regulation assessment process for land use plans, includes consideration of the effect on habitats sites) will not be breached.
- 6.12 Whilst the assessment of the consultation draft version of the Neighbourhood Plan which was screened in September – October 2021 concluded that SEA and HRA will not be required, the screening opinion cautioned that in the event that there were significant changes to the BNP, a further screening opinion may be required.
- 6.13 In addition to conforming to the relevant EU environmental obligations, I am content that the Plan does not breach, and is not otherwise incompatible with the European Convention on Human Rights.
- 6.14 *g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).*

- 6.15 In accordance with the Town and Country Planning Act, 1990 Schedule 4B, Paragraph 5, I am satisfied that the submission plan proposal is not a 'repeat' proposal (i.e. the District Council has not refused a submission under paragraph 12 or Section 61E and it has not failed a referendum).
- 6.16 I am satisfied that Birchington Parish Council is the body who submitted the Plan and is a qualifying body for the purposes of making a neighbourhood development plan. The Designation of the Birchington Neighbourhood Area was approved in accordance with the Neighbourhood Planning (General) Regulations 2012 and with section 61G of the Town and Country Planning Act 1990 as amended for the purposes of Neighbourhood Planning. It was formally designated on 8th December 2016 by TDC, the 'Neighbourhood Area', approved being contiguous with the boundary of Birchington Parish.
- 6.17 As required by the Planning and Compulsory Purchase Act 2005, Section 38B (1) (c), I am also satisfied that the BNP does not relate to more than one neighbourhood area and that there is no other Neighbourhood Development Plan in place within this neighbourhood area.
- 6.18 Concerning compliance with the requirements of the Town and Country Planning Act, 1990 Schedule 4B, Paragraph 6 (2) (c) and the Neighbourhood Planning (General) Regulations (as amended) – Regulation 15, I confirm that TDC has submitted the following in a satisfactory form:
- (i) A map identifying the area to which the Plan relates;
 - (ii) A consultation statement (which contains details of those consulted, how they were consulted, summarises the main issues or concerns raised and how these have been considered and where relevant addressed in the proposed neighbourhood development plan under Regulation 15 (2) (a);
 - (iii) The proposed neighbourhood development plan; and
 - (iv) A statement explaining how the neighbourhood development plan meets the 'Basic Conditions' requirements of paragraph 8 (2) of Schedule 4b to the 1990 Act.
- 6.19 As to public consultation, the process and management of the community consultation has been satisfactory and I am confident that the Consultation Statement outlining the terms of reference and actions of Birchington Parish Council, the supporting evidence from the surveys, events, workshops, consultation correspondence and feedback leading to the formulation of draft policies and subsequent pre-submission and submission plan consultation on the draft Plan policies, adequately fulfils Section 15 (2) of Part 5 of the Neighbourhood Planning Regulations 2012 and Section 16 of these Regulation in relation to publicising the consultation opportunities, during the preparation of the BNP.
- 6.20 The Plan has been examined against national policies in the NPPF (2021), in addition to the adopted strategic planning policies of Thanet District Council. A Basic Conditions Statement in a satisfactory form has been prepared which meets the 'Basic Conditions' requirements of paragraph 8 (2) of Schedule 4b to the 1990 Act;

- 6.21 The BNP meets the definition of a 'Neighbourhood Development Plan' in that it sets out policies in relation to the development and use of land in the neighbourhood area and therefore complies with the requirement of the Planning and Compulsory Purchase Act 2005, Section 38A (2).
- 6.22 The 'Neighbourhood Development Plan' (as defined under Section 38A), specifies the time period for which it is to have effect in paragraph 1.1 of the Introduction to the Plan, as being from 2021-2031 thereby satisfying the requirement of the Planning and Compulsory Purchase Act 2005, Section 38B (1) (a).
- 6.23 I confirm that the BNP, subject to incorporation of the recommended amendments in this report, the BNP will not include any policies relating to excluded development, including minerals, waste or nationally significant infrastructure projects, as defined s61K of the Town & Country Planning Act 1990 (as amended). Thus, the requirement of the Planning and Compulsory Purchase Act 2005, Section 38B (1) (b) will be satisfied.

Conclusions and Recommendations

- 7.1 I conclude that the BNP policies, subject to my recommended alterations being accepted as set out in this examination report, would meet the Basic Conditions as defined in the Localism Act 2011, Schedule 10 and Schedule 4B, 8 (2) of the Town and Country Planning Act 1990, which a neighbourhood plan is required to satisfy before proceeding to a referendum.
- 7.2 If the changes to the BNP policies recommended in this examination report are accepted, I believe that the Plan will make a positive contribution to sustainable development, promoting economic growth, supporting social wellbeing, whilst conserving the natural and historic environment within the designated area and meet the neighbourhood planning, "Basic Conditions."
- 7.3 I therefore recommend that in accordance with Schedule 4B to the Town and Country Planning Act 1990, paragraph 10 (2), b) that the modifications specified in this examination report are made to the submission draft BNP and that the Plan as modified is submitted to a referendum.

Referendum Area

- 7.4 It is the independent examiner's role to consider the referendum area appropriate if the Qualifying Body wishes to proceed to the referendum stage. If Birchington Parish Council wishes to proceed to a referendum with this Plan, I consider that the referendum area should extend to those persons entitled to vote who are resident in the designated Neighbourhood Plan Area.

Jeremy Edge BSc FRICS MRTPI
21st July 2023

Appendix 1

Background Documents

In examining the BNP, I have had regard to the following documents:

1. Birchington Neighbourhood Plan 2021-2031, Submission version, Approved by Birchington Parish Council, 30th November 2021, (Website: www.birchington-pc.org.uk)
2. Consultation Statement, Birchington Neighbourhood Plan 2021-2031, approved by Birchington Parish Council, 30th November 2021.
3. Consultation Statement, Regulation 14 Feedback Report and Analysis
4. Original Basic Conditions Statement approved by Birchington Parish Council, 30th November 2021.
5. Revised Basic Conditions Statement, November 2022.
6. Birchington Neighbourhood Plan Strategic Environmental Assessment and Habitats Regulations Assessment
7. Birchington Neighbourhood Plan Habitats Regulations Assessment – Appendix 1
8. Notification of compliance of documents submitted relating to the Birchington Neighbourhood Plan - Thanet District Council.
9. Birchington Neighbourhood Plan Consultation - Regulation 16 (The Neighbourhood Planning (General) Regulations 2012) - Responses to the Consultation
10. Town and Country Planning Act 1990 (as amended)
11. The Planning and Compulsory Purchase Act 2004 (as amended)
12. Planning (Listed Buildings and Conservation Areas) Act 1990
13. The Community Infrastructure Levy Regulations 2010
14. Localism Act 2011
15. Neighbourhood Planning (General) Regulations 2012
16. The Town and Country Planning (General Permitted Development) (England) Order 2015, (revised 1st April 2023)
17. National Planning Policy Framework 2021
18. Planning Practice Guidance (online version)
19. Thanet Local Plan adopted on 9 July 2020
20. South-East Inshore Marine Plan, Department for Environment, Food and Rural Affairs, June 2021
21. Countryside and Coastal Access Improvement Plan 2013 – 2017, Kent County Council
22. Landscape Character Assessment Supplementary Planning Document (SPD), adopted 9 July 2020, Thanet District Council
23. First Homes Interim Policy Statement, adopted by TDC on 16 June 2022

24. Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
25. “Guidance to service users and examiners” prepared by the Neighbourhood Planning Independent Examiner Referral Service (NPIERS), 2014, at Annex 2: Scope of a Neighbourhood Plan Examination – Summary of the Legal Requirements.
26. Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.
27. The Conservation of Habitats and Species Regulations 2017, Statutory Instruments 2017 No. 1012
28. The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 UK Statutory Instruments 2019 No. 579
29. Equality Act 2010 <https://www.legislation.gov.uk/ukpga/2010/15/contents>
30. The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 UK Statutory Instruments 2019 No. 579.
31. Birchington Neighbourhood Plan: Design Day, 6 June 2019
32. Birchington Neighbourhood Plan Character Assessment, January 2021, Core Group Birchington Parish Council.
33. Birchington Landscape Character Assessment, August 2021
34. Birchington Neighbourhood Plan Assessment of Local Green Spaces including Views and Vistas. Final Version, January 2021
35. Birchington Neighbourhood Plan Leisure & Recreation Assessment, Birchington Parish Council, January 2021
36. Review of Birchington Village Conservation Area, Full Report, Birchington Parish Council, October 2020 (Rod Giddins, Former Director, English Heritage and Historic Royal Palaces)
37. Site Design Guidance and Codes, Birchington, Final Report, April 2021, AECOM
38. Village – wide Design Guidelines, Birchington, Final Report, April 2021 AECOM
39. Consultants Brief to Advise on Options to improve the Commercial Heart of the Village, Birchington Parish Council, 02 February 2021
40. Response to Consultation – Outline Planning Application to build 1,650 new homes and associated facilities on land to the south-west of Birchington – Application: OL TH 20 1755, Birchington Parish Council, 16th February 2021
41. Submission to TDC regarding Planning Application OL/TH/20/1755 Development to the north and east of Canterbury Road, Birchington. Birchington Neighbourhood Planning Group 18th February 2021
42. Birchington Housing Needs assessment (HNA), AECOM, December 2020
43. Section 106 Funds - SP16 Developer Contributions, Finance and Policy Committee, Birchington Parish Council adopted 16th February 2021
44. Kent County Council Infrastructure Assessment for SP16 (land to the south-west of Birchington-on-Sea)
45. KCC Rights of Way Improvement Plan 2018-2028

46. Building for a Healthy Life, Homes England (in partnership) Birkbeck, D., Kruczkowski, S. with Jones, P., McGlynn, S. and Singleton, D. ISBN: 978-1-5272-6432-8 June 2020

Appendix 2

Birchington on Sea Neighbourhood Plan – Submission Version Recommended Revised Policies (Tracked changes)

Policy B1

Policy B1: New development ~~and adaptation~~ which accords fully with the Birchington Village-wide Design Guidelines and Site Design Guidance and Codes will be supported.

The Design and Access Statement submitted with a planning application should set out how this policy has been complied with and provide an explanation of any divergence from the requirements of this policy.

Policy B2 - Peripheral Development

Policy B2: Development proposals ~~and adaptation~~ on land allocated for development in the DP, which is adjacent to, and outside the existing urban area, will be supported where it provides continuity and a seamless transition between the new and the character of the existing settlement. Proposals should incorporate measures in design and construction to protect as far as possible existing significant views and vistas.

The Design and Access Statement submitted with a planning application should set out how this policy has been complied with and an explanation of any divergence from the requirements of this policy.

Policy B3

Policy B3: New development ~~and adaptation~~ that responds positively to heritage and character assets that may be affected by the proposals ~~ed changes~~ will be supported.

Policy B4

Policy B4: Planning permission will not normally be ~~supported~~ granted for development resulting in the loss of existing buildings or structures on the local list of heritage assets unless they are deemed unsafe or beyond economic repair.

~~Alterations, extensions or other development~~ Development which would adversely affect the appearance or setting of such buildings or structures or have any adverse impact on significant archaeological assets including Scheduled Monuments, will not be supported.

Policy B5 (no modifications).

Policy B5: Within designated Areas of High Townscape Value, the conservation and / or enhancement of the local character will be the primary planning aim. In furtherance of this aim, development will be supported only where it conforms with Policy B1.

Policy B6

Policy B6: At designated and non-designated archaeological sites of particular significance likely to be affected by, or incorporated into new development, proposals for appropriate information and permanent interpretation to be displayed at the site(s) will be required.

Policy B7

Please delete Policy B7

Policy B8

Policy B8: Proposals for Major New Development ~~and adaptation~~ will be supported where they are shown to be demonstrably sustainable in relation to the provision and use of utility services. ~~accompanied by assurance statements from utility service providers that additional supply and waste management is sustainable and will not be detrimental to existing users.~~

~~Developers should submit a connectivity statement explaining how their proposals will use and future-proof the most effective and up-to-date communications technology.~~

Policy B9 (no modifications).

Policy B9: Planning applications for new development within the Plan Area should demonstrate how they will contribute towards the delivery of community development. Section 106* Heads of Terms must support planning applications for Major Development Proposals in the Parish. Applicants should present these to the Parish Council for discussion during the determination period.

To further this policy, and in the interests of local democracy, the Parish Council would welcome early collaboration with Thanet District Council and Kent County Council in formulating requests for planning obligations to the Local Planning Authority as part of major application proposals in the parish.

Following the adoption of the Plan, the Parish Council will:

- a) Seek to meet with Applicants of planning applications for Major Developments to discuss local infrastructure needs and the features of the development prior to the preparation of a planning application;
- b) Monitor all applications dealing with reserved matters on Major Developments in the Parish to review conformity to the Neighbourhood Plan Policies, providing representations to Thanet District Council as required.

*Or any subsequent legislation governing developer contributions.

Policy B10

Policy B10: The sites identified as open space on the Birchington-on-Sea green and open spaces map ~~Local Green Space Map and listed below~~ will be protected from development with an equivalent level of protection accorded to areas of protected open space provided by Policy SP32 in the Thanet Local Plan, in accordance with the National Planning Policy Framework 2021

5 Birchington Bowls Club and Tennis Courts,

9 King Ethelbert School Open Space and Playing Fields,

15 Canterbury Road/Charlesworth Drive,

17 Primary School Open Space and Playing Field,

19 All Saint's Church Graveyard (excluding the footprint of all buildings) and

25 Open land at St Thomas C of E Church, Minnis Road

Development proposals that provide beneficial proportionate new and/or enhanced public open space will be supported.

The sites identified as Local Green Space on the Birchington-on-Sea green and open spaces map and listed below will be protected from development in accordance with the National Planning Policy Framework 2021.

- 8. Queen Bertha's Avenue
- 18. Norrie Road
- 20. Duncan Drive
- 23. The Green, Minnis Bay, and
- 24. Grenville Gardens

Proposals for development in a designated Local Green Space will not be supported, unless necessary for the use of the land for public recreation or are required for a statutory utility or other public infrastructure purpose.

Policy B11

Policy B11: New development ~~proposals and adaptation of properties~~ adjoining open spaces, countryside and sites designated as Local Green Space ~~which should~~ reflect the character of the area and respect the setting provided by such spaces will be supported subject to other policy requirements.

~~Development should not inhibit or reduce the views, importance and enjoyment of public open spaces.~~

Policy B12

Policy B12: In the open countryside or overlooking the coast, development proposals ~~any intensification of use resulting in adaptation or new buildings~~ should be sustainable, of an appropriate scale and have minimal impact on the character of the open landscape surrounding the village. Development proposals which maintain the views and vistas shown on the Views and Vistas Map as listed below will be supported, subject to other policy requirements.

Point 1 – Hawk Place / Plum Pudding

Points 2 & 3 - Grenham Bay Cliff Tops

Point 4 - Epple Bay Cliff Tops

Point 7 – Canterbury Road at King Ethelbert School:

Point 9 - Park Road:

This policy should be implemented in conjunction with Policy SP24 (Development in the Countryside) of the Thanet Local Plan 2020.

Policy B13

Please delete Policy B13.

Policy B13a

Please delete Policy B13a.

Policy B13b

Policy B13b: Proposals for coastal development ~~which are demonstrably should be~~ compliant with the policies contained in the South-East Inshore Marine Plan adopted by the Marine Management Organisation will be supported.

Policy B14

Integrate with Policy B15 as shown in Appendix 2.

Policy B14 *(incorporating Policy B15 of the submission version of the BNP).*

Policy B14: Proposals for major development which are accompanied by a survey that catalogues the location, health and includes where relevant a management plan for all viable trees and hedgerows on-site will be supported, subject to compliance with other policies in this Plan.

A net gain in the quantity and quality of appropriate trees on all large new planning application sites will be expected, unless supporting design guidelines for the development state that this would be unachievable. In this scenario, the potential for providing new tree planting off-site should be explored.

Policy B16

Policy B16: Landscaping schemes should be consistent with and reinforce local character areas where appropriate. Schemes which improve biodiversity or create new habitat features will be supported.

Policy B17

Development which incorporates, protects and enhances existing public rights of way including footpaths, bridleways, restricted byways and byways open to all traffic as well as cycle routes, or creates new safe routes particularly those serving schools and other community facilities, will be supported, subject to all other policies in the Plan.

The loss of any public rights of way will be resisted unless it can be demonstrated that any diversion or alternative provision would help to improve or enhance safe and convenient routes for pedestrians, cyclists and horse riders.

Policy B18

Policy B18: ~~In order to~~ To encourage safe movement of traffic and to promote the reduction in vehicle use and emissions, development proposals and adaptations will be supported which include appropriate provision of features such as:

- vehicle-free zones
- car club spaces
- charging points and dedicated parking spaces for electric vehicles
- sustainable off-road parking for vehicles, electric scooters, wheelchairs and storage for cycles
- schemes designed to reduce air pollution caused by vehicle emissions including proposals that support and encourage greater use of low- emission public transport and well-being through Active Travel proposals.

Proposals will not be supported where the Local Planning Authority identifies that additional on street parking is ~~will~~ likely to be detrimental to safety or impede access for public transport, emergency vehicles or any other service vehicles.

Policy B19

Policy B19: Except where land has been allocated for other uses within Policy SP16 of the TLP, development will not be supported if it results in the permanent irreversible loss of versatile and productive agricultural land, defined for the purposes of this policy as grade 3a and above, unless it can be clearly demonstrated that:

- 1) the benefits of the proposed development outweigh the harm resulting from the loss of agricultural land;
- 2) there are no otherwise suitable sites of poorer agricultural quality that can accommodate the development; and

- 3) there are no otherwise suitable sites available to facilitate the provision of essential infrastructure to meet the requirements of the Local Plan and/or relevant Local Transport Policy.

Policy B20

Please delete Policy B20

Policy B21

Policy B21: Development of new housing to meet local needs and deliver affordable housing in accordance with the required rate identified in the Local Plan will be supported, subject to other policy requirements.

Any diminution of the requirement contained in the Local Plan relating to any site in the Plan area will be resisted unless it can be clearly and openly demonstrated to the Local Planning Authority ~~to the Parish Council~~ that compliance with the policy (SP23) in the Local Plan would make the proposed development unviable.

Policy B22

Please integrate Policy 22 with Policy 23 as recommended in the consideration of Policy B23.

Policy B24

No modification to Policy B24 is recommended if the Plan is to proceed to referendum.

Policy B25

Policy B25: ~~Development Proposals~~ Any changes in the Plan Area, including changes of use, new or replacement shop fronts and fascias within the commercial areas identified on Map 6 in the Appendix, Part B Maps, ~~that require planning consent~~ should be sensitively managed having regard to the character of the neighbourhood, particularly in the Conservation Area(s) and the Station Road Area of High Townscape Value.

Development which enhances the character of the public realm and/or cultural and leisure space within the commercial areas of the village will be supported, subject to other policies of the Plan.

Policy B26

Please delete Policy B26.

Policy B27

No alterations are necessary to Policy B27 if the Plan is to proceed to referendum.

Policy B28

No alterations are necessary to Policy B28 if the Plan is to proceed to referendum.

Policy B29

No alterations are necessary to Policy B29 if the Plan is to proceed to referendum.

Policy B30

No alterations are necessary to Policy B30 if the Plan is to proceed to referendum.

Policy B31

Please delete Policy B31.

Policy B32

Policy B32: Development that sustains or helps to increase the viable use of existing community leisure and recreation facilities or contributes proportionately towards eliminating the shortfall of provision as set out in the Leisure and Recreation Assessment 2021 comprising:

- a) Football, cricket and provision for badminton (community hall provision); and
- b) for new housing development provides space and facilities for
 - Playing Pitches – Sport England New Housing Development Playing Pitch Calculator Tool. See Appendix Part 4.
 - Indoor Sport, sports halls, swimming pools and indoor bowls facilities – Sport England Sports Facility Calculator. See Appendix 10.
 - Open Space – Thanet District Council Development Plan standard requirements for new developments

will be supported.

Development for leisure and recreational facilities that demonstrably encourages Active Travel will be supported.

Policy B33

Please delete Policy B33 and the supporting text.

Policy B34

No modifications are necessary to Policy B34 if the submission draft BNP is to proceed to referendum.

Policy B35

Please delete Policy B35 and references to it in the supporting text to the BNP.

Policy B36

Policy B36: Proposals for protection of public rights of way and provision of new safe and attractive pedestrian and cycle routes across the site allocated for development (Policy SP16 within the Local Plan) whole site that serve the wider community, providing links to Quex Park, Minnis Bay, the railway station, medical centre, designated cycle routes and to the commercial centre of the village, will be supported.

Policy B37

No modifications are necessary to Policy B37 if the submission draft BNP is to proceed to referendum.

Appendix 3

Birchington on Sea Neighbourhood Plan – Submission Version Recommended Revised Policies (Clean)

Policy B1

Policy B1: New development which accords fully with the Birchington Village-wide Design Guidelines and Site Design Guidance and Codes will be supported.

The Design and Access Statement submitted with a planning application should set out how this policy has been complied with and provide an explanation of any divergence from the requirements of this policy.

Policy B2 - Peripheral Development

Policy B2: Development proposals on land allocated for development in the DP, which is adjacent to, and outside the existing urban area, will be supported where it provides continuity and a seamless transition between the new and the character of the existing settlement. Proposals should incorporate measures in design and construction to protect as far as possible existing significant views and vistas.

The Design and Access Statement submitted with a planning application should set out how this policy has been complied with and an explanation of any divergence from the requirements of this policy.

Policy B3

Policy B3: New development that responds positively to heritage and character assets that may be affected by the proposals, will be supported.

Policy B4

Policy B4: Planning permission will not normally be supported for development resulting in the loss of existing buildings or structures on the local list of heritage assets unless they are deemed unsafe or beyond economic repair.

Development which would adversely affect the appearance or setting of such buildings or structures or have any adverse impact on significant archaeological assets including Scheduled Monuments, will not be supported.

Policy B5 (no modifications).

Policy B5: Within designated Areas of High Townscape Value, the conservation and / or enhancement of the local character will be the primary planning aim. In furtherance of this aim, development will be supported only where it conforms with Policy B1.

Policy B6

Policy B6: At designated and non-designated archaeological sites of particular significance likely to be affected by, or incorporated into new development, proposals for appropriate information and permanent interpretation to be displayed at the site(s) will be required.

Policy B7

Please delete Policy B7

Policy B8

Policy B8: Proposals for Major New Development will be supported where they are shown to be demonstrably sustainable in relation to the provision and use of utility services.

Policy B9 (no modifications).

Policy B9: Planning applications for new development within the Plan Area should demonstrate how they will contribute towards the delivery of community development. Section 106* Heads of Terms must support planning applications for Major Development Proposals in the Parish. Applicants should present these to the Parish Council for discussion during the determination period.

To further this policy, and in the interests of local democracy, the Parish Council would welcome early collaboration with Thanet District Council and Kent County Council in formulating requests for planning obligations to the Local Planning Authority as part of major application proposals in the parish.

Following the adoption of the Plan, the Parish Council will:

- a) Seek to meet with Applicants of planning applications for Major Developments to discuss local infrastructure needs and the features of the development prior to the preparation of a planning application;
- b) Monitor all applications dealing with reserved matters on Major Developments in the Parish to review conformity to the Neighbourhood Plan Policies, providing representations to Thanet District Council as required.

*Or any subsequent legislation governing developer contributions.

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- 9 King Ethelbert School Open Space and Playing Fields,
- 15 Canterbury Road/Charlesworth Drive),
- 17 Primary School Open Space and Playing Field,
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- 25 Open land at St Thomas C of E Church, Minnis Road

Development proposals that provide beneficial proportionate new and/or enhanced public open space will be supported.

The sites identified as Local Green Space on the Birchington-on-Sea green and open spaces map and listed below will be protected from development in accordance with the National Planning Policy Framework 2021.

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- 24. Grenville Gardens

Proposals for development in a designated Local Green Space will not be supported, unless necessary for the use of the land for public recreation or are required for a statutory utility or other public infrastructure purpose.

Policy B11

Policy B11: New development proposals adjoining open spaces, countryside and sites designated as Local Green Space which reflect the character of the area and respect the setting provided by such spaces will be supported subject to other policy requirements.

Policy B12

Policy B12: In the open countryside or overlooking the coast, development proposals should be sustainable, of an appropriate scale and have minimal impact on the character of the open landscape surrounding the village. Development proposals which maintain the views and vistas shown on the Views and Vistas Map as listed below will be supported, subject to other policy requirements.

Point 1 – Hawk Place / Plum Pudding

Points 2 & 3 - Grenham Bay Cliff Tops

Point 4 - Epple Bay Cliff Tops

Point 7 – Canterbury Road at King Ethelbert School:

Point 9 - Park Road:

This policy should be implemented in conjunction with Policy SP24 (Development in the Countryside) of the Thanet Local Plan 2020.

Policy B13

Please delete Policy B13.

Policy B13a

Please delete Policy B13a.

Policy B13b

Policy B13b: Proposals for coastal development which are demonstrably compliant with the policies contained in the South-East Inshore Marine Plan adopted by the Marine Management Organisation will be supported.

Policy B14

Integrate with Policy B15 as shown in Appendix 2.

Policy B14 *(incorporating Policy B15 of the submission version of the BNP).*

Policy B14: Proposals for major development which are accompanied by a survey that catalogues the location, health and includes where relevant a management plan for all viable trees and hedgerows on-site will be supported, subject to compliance with other policies in this Plan.

A net gain in the quantity and quality of appropriate trees on all large new planning application sites will be expected, unless supporting design guidelines for the development state that this would be unachievable. In this scenario, the potential for providing new tree planting off-site should be explored.

Policy B16

Policy B16: Landscaping schemes should be consistent with and reinforce local character areas where appropriate. Schemes which improve biodiversity or create new habitat features will be supported.

Policy B17

Development which incorporates, protects and enhances existing public rights of way including footpaths, bridleways, restricted byways and byways open to all traffic as well as cycle routes, or creates new safe routes particularly those serving schools and other community facilities, will be supported, subject to all other policies in the Plan.

The loss of any public rights of way will be resisted unless it can be demonstrated that any diversion or alternative provision would improve or enhance safe and convenient routes for pedestrians, cyclists and horse riders.

Policy B18

Policy B18: To encourage safe movement of traffic and to promote the reduction in vehicle use and emissions, development proposals will be supported which include appropriate provision of features such as:

- ***vehicle-free zones***
- ***car club spaces***
- ***charging points and dedicated parking spaces for electric vehicles***
- ***sustainable off-road parking for vehicles, electric scooters, wheelchairs and storage for cycles***
- ***schemes designed to reduce air pollution caused by vehicle emissions including proposals that support and encourage greater use of low- emission public transport and well-being through Active Travel proposals.***

Proposals will not be supported where the Local Planning Authority identifies that additional on street parking is likely to be detrimental to safety or impede access for public transport, emergency vehicles or any other service vehicles.

Policy B19

Policy B19: Except where land has been allocated for other uses within Policy SP16 of the TLP, development will not be supported if it results in the permanent irreversible loss of versatile and productive agricultural land, defined for the purposes of this policy as grade 3a and above, unless it can be clearly demonstrated that:

- 1) the benefits of the proposed development outweigh the harm resulting from the loss of agricultural land;**
- 2) there are no otherwise suitable sites of poorer agricultural quality that can accommodate the development; and**
- 3) there are no otherwise suitable sites available to facilitate the provision of essential infrastructure to meet the requirements of the Local Plan and/or relevant Local Transport Policy.**

Policy B20

Please delete Policy B20

Policy B21

Policy B21: Development of new housing to meet local needs and deliver affordable housing in accordance with the required rate identified in the Local Plan will be supported, subject to other policy requirements.

Any diminution of the requirement contained in the Local Plan relating to any site in the Plan area will be resisted unless it can be clearly and openly demonstrated to the Local Planning Authority that compliance with the policy (SP23) in the Local Plan would make the proposed development unviable.

Policy B22

Please integrate Policy 22 with Policy 23 as recommended in the consideration of Policy B23.

Policy B23

Policy B23: In relation to affordable housing design, proposals which:

- a) are indistinguishable from market housing, including densities; and
- b) are of a quality no less than dwellings built for private sale, to ensure that the overall character, environment and amenities of the area are sustained or enhanced; and
- c) meet the criteria contained in “Building for a Healthy Life 2020” and respond positively to the Birchington Village-wide and Site Design Guidelines 2021; and
- d) are spread throughout the development to maintain diversity of tenures;

will be supported subject to other policy requirements of the Plan.

Where it is not possible for developers to adhere to these requirements, the Design and Access Statement should explain the reasons for non-compliance and offer proposed mitigation.

Policy B24

No modification to Policy B24 is recommended if the Plan is to proceed to referendum.

Policy B25

Policy B25: Development Proposals in the Plan Area, including changes of use, new or replacement shop fronts and fascia’s within the commercial areas identified on Map 6 in the Appendix, Part B

Maps, should be sensitively managed having regard to the character of the neighbourhood, particularly in the Conservation Area(s) and the Station Road Area of High Townscape Value.

Development which enhances the character of the public realm and/or cultural and leisure space within the commercial areas of the village will be supported, subject to other policies of the Plan.

Policy B26

Please delete Policy B26.

Policy B27

No alterations are necessary to Policy B27 if the Plan is to proceed to referendum.

Policy B28

No alterations are necessary to Policy B28 if the Plan is to proceed to referendum.

Policy B29

No alterations are necessary to Policy B29 if the Plan is to proceed to referendum.

Policy B30

No alterations are necessary to Policy B30 if the Plan is to proceed to referendum.

Policy B31

Please delete Policy B31.

Policy B32

Policy B32: Development that sustains or helps to increase the viable use of existing community leisure and recreation facilities or contributes proportionately towards eliminating the shortfall of provision as set out in the Leisure and Recreation Assessment 2021 comprising;

- a) Football, cricket and provision for badminton (community hall provision); and
- b) for new housing development provides space and facilities for
 - Playing Pitches – Sport England New Housing Development Playing Pitch Calculator Tool. See Appendix Part 4.
 - Indoor Sport, sports halls, swimming pools and indoor bowls facilities – Sport England Sports Facility Calculator. See Appendix 10.
 - Open Space – Thanet District Council Development Plan standard requirements for new developments

will be supported.

Development for leisure and recreational facilities that demonstrably encourages Active Travel will be supported.

Policy B33

Please delete Policy B33 and the supporting text.

Policy B34

No modifications are necessary to Policy B34 if the submission draft BNP is to proceed to referendum.

Policy B35

Please delete Policy B35 and references to it in the supporting text to the BNP.

Policy B36

Policy B36: Proposals for protection of public rights of way and provision of new safe and attractive pedestrian and cycle routes across the site allocated for development (Policy SP16 within the Local Plan) that serve the wider community, providing links to Quex Park, Minnis Bay, the railway station, medical centre, designated cycle routes and to the commercial centre of the village, will be supported.

Policy B37

No modifications are necessary to Policy B37 if the submission draft BNP is to proceed to referendum.