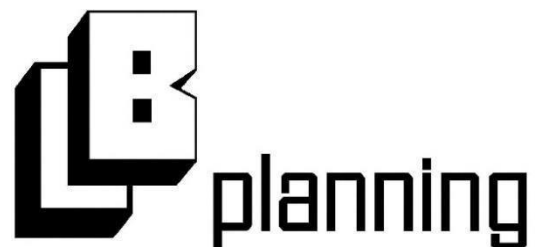


**Kingswear Parish  
Neighbourhood Plan 2019 - 2034**

**BASIC CONDITIONS STATEMENT**

**February 2020**



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## 1. Legal Requirements

1.1 This Statement has been prepared by LB Planning on behalf of the Kingswear Neighbourhood Planning Group and Kingswear Parish Council. It accompanies the submission to the local planning authority, South Hams District Council, of the Kingswear Neighbourhood Plan (“the Neighbourhood Plan”), as required by Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (“the Regulations”). No other neighbourhood plan has been submitted for the neighbourhood area.

1.2 The Neighbourhood Plan has been prepared by Kingswear Neighbourhood Planning Steering Group (KNPSG) on behalf of the Kingswear Parish Council, a qualifying body for the Neighbourhood Area covering Kingswear Parish and designated by South Hams District Council on the 19<sup>th</sup> May 2016.

1.3 The policies described in the Neighbourhood Plan relate to the development and use of land in the designated Neighbourhood Area only. The plan period of the Neighbourhood Plan extends until the end of 2034 and it does not contain policies relating to excluded development in accordance with the Regulations.

1.4 This Statement addresses each of the four ‘Basic Conditions’ and, as required by the Regulations, explains how the Neighbourhood Plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Town & Country Planning Act. The Submission documents also include a screening opinion that states there are no likely significant effects on Habitats and therefore a Habitats Regulations Assessment will not be required. Thus the proscribed Basic Condition introduced by the Habitats and Species Regulations 2017 (as amended) has also been met. Departing the EU has not yet changed the legally prescribed Basic Conditions.

1.5 The legislation states that a Neighbourhood Plan will be considered to have met the basic conditions if:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood development plan;
- The making of the neighbourhood development plan contributes to the achievement of sustainable development;
- The making of the neighbourhood development 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);
- The making of the neighbourhood development plan does not breach, and is otherwise compatible with, EU obligations (including the proscribed Habitats Basic Condition) and the Human Rights Act 1998.

## **2. Introduction and Background**

2.1 Kingswear PC decided they wanted to undertake a neighbourhood plan in order to establish a framework for planning and development in their local area. So four years ago a planning group of local residents and some councillors, the KNPSG, was set up. The Group has undertaken surveys and consultation on planning issues with the local community, and worked with the Local Planning Authority (South Hams DC), to draw up the Kingswear Parish Neighbourhood Plan (KNP).

2.2 A draft plan was produced in 2019 and the six week formal consultation undertaken, as required by Reg14 of the Neighbourhood Plan Regulations 2012 (NP Regs 2012), from the 23<sup>rd</sup> September to the 4<sup>th</sup> November 2019.

2.3 Responses from this consultation have been considered, and some changes made to the policies in the Neighbourhood Plan as a result, detailed in the Consultation Statement. The Plan is now ready to be submitted to the Local Planning Authority. As required by the Regulations; the submission of the Neighbourhood Plan to the Local Planning Authority is accompanied by this Basic Conditions Statement, a Consultation Statement, a plan showing the neighbourhood area and the results of the Strategic Environmental Assessment and Habitats Regulations Assessment screening opinion.

## **3. Conformity with National Planning Policy**

3.1 The KNP has been prepared with regard to national policies as set out in the National Planning Policy Framework (NPPF), 2019 version. It is also mindful of the National Planning Practice Guidance (NPPG) published by the Government in April 2014 and updated thereafter in respect of formulating neighbourhood plans.

3.2 The Parish of Kingswear in its entirety is located within the South Devon AONB. The NPPF (para 172) is clear that AONBs should have the highest level of protection in respect of “conserving and enhancing landscape and scenic beauty”. This has been an over-arching concern of the KNP, and has informed policy options and development at all times. It should be noted that much of the Parish is also designated Heritage Coast, a feature also specifically offered a high level of protection in the NPPF.

3.3 Set out in Table 1 below, is a brief summary of how each policy conforms to the NPPF. The particular paragraphs referred to in the table are those considered the most relevant to each policy but are not intended to be an exhaustive list of all possible relevant paragraphs.

**Table 1: Conformity of the Neighbourhood Plan (NDP) policies to the NPPF**

<b>NDP Policy</b>	<b>NPPF paragraph</b>	<b>Comment on conformity</b>
<b>K1 Settlement Boundaries</b>	<b>8; 16; 28</b>	Policy K1 implements sustainable development with due regard to the local sensitivity of the Area of Outstanding Natural Beauty (AONB).
<b>K2 Exception Sites</b>	<b>61; 71</b>	Policy K2 allows for exception sites for affordable housing if local demand is demonstrated, while having due regard to the needs of the AONB.
<b>K3 Local Connection</b>	<b>77</b>	The NPPF requires rural housing to support housing developments that reflect local needs.
<b>K4 Design of Development</b>	<b>125</b>	Policy K4 supports high quality design. A local character Assessment was undertaken to provide evidence for this policy, with guidelines for decision-makers and developers. The NPPG requires a proportionate evidence base for policies, and NPPF para 125 promotes neighbourhood plans undertaking this work.
<b>K5 Primary Residence</b>	<b>92; 77</b>	The NPPF para 92 requires planning policy to guard against the loss of valued facilities and services, and too many second homes reduce the customer and user base for community facilities. Policy K5 also promotes new housing being available for local needs, as required by the NPPF (para 77).
<b>K6 Local Heritage Assets</b>	<b>184</b>	The NPPF acknowledges assets of heritage value are local as well as national, and Policy K6 is identifying local assets that are not protected under national legislation.
<b>K7 Traffic Calming</b>	<b>102</b>	A safe environment on the roads is essential for promoting more walking and cycling journeys, and this paragraph of the NPPF requires that opportunities to promote these environmentally friendly modes of transport are promoted.
<b>K8 Trees and Woodland</b>	<b>170</b>	NPPF para 170, particularly 170b promotes the protection of trees and woodland. The wooded nature of the estuary slopes surrounding Kingswear is a valued aspect of the landscape of the AONB.
<b>K9 Local Wildlife Sites</b>	<b>171</b>	The NPPF recognises the importance of local wildlife sites. There is now a requirement on development to work for a net gain in biodiversity, and this policy has been amended to reflect this.

<b>NDP Policy</b>	<b>NPPF paragraph</b>	<b>Comment on conformity</b>
<b>K10 Local Green Space</b>	<b>99-101</b>	Local Green Spaces can be designated in neighbourhood plans, and paras 99-101 set out the grounds for designation. Policy K10 has nominated 4 special places in Kingswear for this status, and Appendix 2 provides the justification for this, based on the guidance in the NPPF.
<b>K11 POS and Access to Water</b>	<b>96-97</b>	The location of Kingswear next to a coastal estuary that is particularly suited to boating means that giving a wide an access to the estuary and coast as possible is important for local active sport, leisure and recreation. Policy K11 aims to protect the existing places where public access to water is currently available. The NPPF paras 96-7 emphasises that access to opportunities for sport and physical activity is important for the health and well-being of communities. And water-based activities are a particularly important resource for Kingswear.
<b>K12 Important Views</b>	<b>125, 172</b>	Views and vistas are stunning in this AONB, and a key feature of Kingswear. Policy K12 conserve them, based on the evidence of the Character Assessment.
<b>K13 Rights of Way Network</b>	<b>98</b>	In line with the NPPF, Policy K13 looks to protect and improve where possible the Rights of Way network.
<b>K14 Allotments and Community Orchard</b>	<b>91</b>	The NPPF supports promoting access to healthier food (para 91c), and Policy K14 is protecting facilities for growing local food organically.
<b>K15 Renewable Energy</b>	<b>148</b>	Policy K15 supports the transition to a low carbon future, and as required by the Ministerial Statement of June 2015 sets out criteria for which renewable technologies will be acceptable.
<b>K16 Minor Employment Development</b>	<b>83</b>	Policy K16 promotes sustainable economic development consistent with the sensitivities of the AONB and need to maintain the settlement's attractiveness for residents and the visitor economy.
<b>K17 Community Assets</b>	<b>83; 92</b>	The NPPF supports promoting the retention of community assets in rural areas, and provision of shared spaces and healthy communities.
<b>K18 Play Facilities</b>	<b>96</b>	The NPPF requires Plans to address deficiencies in activity provision, and there are currently no children's play facilities in Hillhead. Policy 18 requires this is addressed if a future opportunity arises.

<b>NDP Policy</b>	<b>NPPF paragraph</b>	<b>Comment on conformity</b>
<b>K19 Developer Contributions</b>	<b>17 - 18</b>	Policy K19 offers transparency to developers and the local community on the current intentions of the Parish Council.

#### 4. General conformity with the strategic Policies of the development plan

4.1 The development plan for South Hams District, not including policy related to excluded development is the Plymouth and South West Joint Local Plan 2014-2034 (JLP). The Kingswear Neighbourhood Plan (KNP) has been prepared to ensure it is in general conformity with this Development Plan.

4.2 Table 2 below sets out how each policy is in general conformity therefore with the JLP.

**Table 2: Conformity of Neighbourhood Plan policies with the strategic development plan policies**

<b>NDP Policy</b>	<b>JLP Policy</b>	<b>Comment on conformity</b>
<b>K1 Settlement Boundaries</b>	Justification page 189	The JLP encourages neighbourhood plans to set development boundaries.
<b>K2 Exception Sites</b>	<b>TTV27</b>	Policy TTV27 allows for exception sites for affordable housing in rural areas. Policy K2 has followed this policy but altered some details of market housing subsidy and size of any site to suit the local conditions. These are firstly that the housing market has above average level of house prices for the area, justifying less market subsidy, and that in the AONB a smaller size of site with lower impact should be encouraged. In both instances, if a case is made for altering policy requirements then this will be a material consideration for planning purposes.
<b>K3 Local Connection</b>	<b>TTV27</b>	JLP Policy TTV27 requires exception sites to meet a proven need for affordable housing for local people. Policy K3 sets out the definition of local for the Parish of Kingswear.
<b>K4 Design of Development</b>	<b>DEV20</b>	The JLP (para 6.38) suggests that Policy in neighbourhood plans, when supported by adequate evidence, can add detail to the design requirements of Policy DEV20. This policy is supported by a evidence base of a Parish Character Assessment.
<b>K5 Primary Residence</b>	<b>Vision; Strategic Objective 9</b>	The JLP Vision includes the aspiration that “residents are empowered to create strong communities”. The strategic objectives include maintaining viability of rural communities and allowing the development of new homes to meet local needs.
<b>K6 Local Heritage Assets</b>	<b>DEV21</b>	Protection of the historic environment in the JLP includes both designated and non-designated heritage assets. Policy K6 identifies the non-designated heritage assets of local importance and adds detail to the JLP policy.
<b>K7 Traffic Calming</b>	<b>DEV29</b>	Policy DEV29 requires sufficient car parking is provided in development to protect the amenity of surrounding residential areas. Evidence is provided in the KNP to support the parking requirements of Policy K7.



<b>NDP Policy</b>	<b>JLP Policy</b>	<b>Comment on conformity</b>
<b>K8 Trees and Woodland</b>	<b>DEV28</b>	Policy DEV28 protects woodlands and trees and requires development to avoid their loss or deterioration. Trees and Woodland are particularly important features of the landscape of the AONB in Kingswear, and Policy K8 has been framed to give the protection required in the AONB, in line with guidance from the AONB. They are also a crucial habitat for protected bats and other wildlife.
<b>K9 Local Wildlife Sites</b>	<b>DEV26 and DEV28</b>	Policy K9 adds the local detail to the protection provided by Policy DEV26 of the JLP for local wildlife sites.
<b>K10 Local Green Space</b>	<b>JLP doesn't designate</b>	The NPPF allows neighbourhood plans to designate Local Green Space. Although Local Plans also have this power, the JLP has not done this. It is more appropriate done at a local level in our neighbourhood plan we would suggest.
<b>K11 POS and Access to Water</b>	<b>DEV1 and DEV3</b>	These JLP policies require development to safeguard the health and amenity of local communities, and their access to opportunities for physical activity and active leisure. The draft SPD for the JLP (para 3.92-3) specifies that access to water is to be promoted and protected in the Local Plan area.
<b>K12 Important Views</b>	<b>DEV20</b>	Evidence for the views and vistas to be protected is provided in the Parish Character Assessment. Policy K12 is giving the local detail to policy in the JLP and is supported by the draft SPD (Legibility Section page 90), which supports protecting views for reasons of legibility as well as scenic beauty.
<b>K13 Rights of Way Network</b>	<b>DEV3</b>	Policy DEV3 supports the protection and where appropriate the enhancement of the Rights of Way Network. Policy K13 gives local detail on this.
<b>K14 Allotments and Community Orchard</b>	<b>DEV5</b>	Policy DEV5 supports and encourages local food growing and the protection of existing food growing sites. Policy K14 gives local detail on this.
<b>K15 Renewable Energy</b>	<b>DEV32</b>	Policy K15 gives local detail to the general support for renewable low carbon technologies.
<b>K16 Minor Employment Development</b>	<b>DEV15</b>	Policy K16 gives local context to this Local Plan policy, and ensures protection of the AONB.
<b>K17 Community Assets</b>	<b>DEV18</b>	Policy DEV18 protects local shops and services, and Policy K17 provides the local detail on facilities.
<b>K18 Play Facilities</b>	<b>DEV3</b>	Policy K18 is dealing with an identified shortfall in provision of children's play facilities in Hillhead. Local Plan policy does not mention children's needs specifically, and this redresses that locally.
<b>K19 Developer Contributions</b>	<b>Vision</b>	The JLP Vision includes the aspiration that "residents are empowered to create strong communities".

## 5. Contribution to Achieving Sustainable Development

5.1 A Sustainability Appraisal has not been undertaken as this is not a requirement for a Neighbourhood Plan. However, the Neighbourhood Plan has taken account of the need to contribute to the achievement of sustainable development.

5.2 The strategic objectives of the Neighbourhood Plan have sustainability at their heart. The vision is

“To promote a thriving and sustainable community while protecting the special charm and character of Kingswear Parish and the AONB for residents and visitors.”

Protecting the charm and character of the Parish is good for the environment and biodiversity, but it is also good for tourism, and thus the economic aspect of sustainability. There are also policies to assist local people struggling to find a home due to high house prices and a lack of affordable housing. These policies address the social aspect of sustainability, and thus the three pillars of sustainability have been addressed in the Plan.

5.3 Table 3 below has assessed our plan’s policies in terms of how it will deliver sustainable development in the economic, social and environmental aspects of sustainability. It shows that the plan’s policies are normally positive in impact on all three aspects, and where they are not, a decision has been taken about the greater benefit of the proposal in terms of another aspect of sustainability.

**Table 3: Assessment of sustainability of Neighbourhood Plan policies**

Policy no. and title	Economic factors	Social factors	Environmntl factors	Comments
<b>K1 Settlement Boundaries</b>	-	-	**	Protecting the AONB helps wildlife and the tourist economy although restricting development opportunities.
<b>K2 Exception Sites</b>	*	**	X	Building outside the settlement boundary will slightly reduce wildlife habitats.
<b>K3 Local Connection</b>	*	**	-	Helps create a stronger community by retaining residents, and also local workforce.
<b>K4 Design of Development</b>	*	*	*	Benefits feelings of well-being, visual appearance benefits tourism and green infrastructure benefits wildlife.
<b>K5 Primary Residence</b>	-	**	-	Mainly a social benefit in creating a stronger community.
<b>K6 Local Heritage Assets</b>	*	*	**	Benefits to tourism industry as well as environmental benefits.
<b>K7 Traffic Calming</b>	*	*	**	Benefits to tourism industry as well as environmental benefits.

Policy no. and title	Economic factors	Social factors	Environmntl factors	Comments
<b>K8 Trees and Woodland</b>	-	*	**	Some social benefits of well-being created by green spaces.
<b>K9 Local Wildlife Sites</b>	-	*	**	Also social benefits of well-being created by wildlife proximity.
<b>K10 Local Green Space</b>	-	**	*	Mainly a social benefit of protecting important open space.
<b>K11 POS and Access to Water</b>	*	**	-	Social benefits of active leisure, also a plus for tourism.
<b>K12 Important Views</b>	*	*	**	Tourism, local sense of identity and habitats included in views all benefit.
<b>K13 Rights of Way Network</b>	*	**	*	Benefits to tourism, active leisure and encouraging use of the countryside.
<b>K14 Allotments and Community Orchard</b>	*	**	*	Mainly social benefits, but alternative local economy benefits too.
<b>K15 Renewable Energy</b>	*	-	**	Assists renewable energy industries and the environment.
<b>K16 Minor Employment Development</b>	**	*	<b>X</b>	Economic and social benefits. Possibly minor environmental dis-benefits.
<b>K17 Community Assets</b>	*	**	*	Social benefits of creating a stronger community, and some economic and environmental benefits if local enterprises retained (less travelling out of the Parish).
<b>K18 Play Facilities</b>	-	**	-	Benefits are mainly social, for children.
<b>K19 Developer Contributions</b>	*	*	*	Offers the possibility of improving all aspects of sustainability.

Scale used: \*\* very positive \* positive – neutral x negative xx very negative

## 6. Compatibility with EU Obligations and legislation

6.1 The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act 1998.

6.2 A screening decision was issued by South Hams District Council in June 2019 following consultation on a Screening Opinion with the relevant national bodies. This advised that the Neighbourhood Plan did not require a Strategic Environmental Assessment or an Appropriate Assessment under the EU Habitats Regulations. The Determination stated that:

**“SEA:** Having taken all of the relevant policies of the draft Kingswear Neighbourhood Plan (Pre Regulation 14 Version submitted in May 2019) into account, and assessed the potential environmental impact on designated sites and landscapes, it is the Council’s opinion that a full SEA is not required for the Neighbourhood Plan since no development proposals are included in the Plan.

**HRA:** Kingswear lies within the sustenance zone of the Berry Head SSSI ( South Hams SAC). The Plan does not allocate any development sites. In the light of this Council consider the Kingswear Neighbourhood Plan will not have a significant effect on a European Site and therefore further assessment under the Habitat Regulations is not required.”

## 7. References

National Planning Policy Framework 2019

National Planning Policy Guidance (2014 and updated)

Plymouth and South West Devon Joint Local Plan 2019

Neighbourhood Planning Regulations 2012 as amended