Dear Ms. Baisch,

Kettering Site Specific Part 2 Local Plan

List of areas of work following the hearing sessions

1. I write further to the conclusion of the hearing sessions for the examination of the Kettering Site Specific Part 2 Local Plan. Thank you for the list of work areas arising from the hearings that you have produced and intend to undertake (letter dated 2 November 2020). Please can this be published on the website for information only.

2. I will consider the provisional detailed wording changes to the policies that are proposed in outline in the list when it comes to drafting any suggested Main Modifications (MMs) which would be subject to consultation at that time (see the Next Steps section at the end of this letter for more on this). I am generally content that the areas of work identified in the list reflect our discussions at the hearings but would add the following points of clarification in relation to some of them.

3. **Matter 2 Policy RS4** – there is a need to consider more widely the approach to re-development and previously developed land in the countryside. This includes the re-development of non-historic buildings in the countryside as raised by representors. As things stand Policy RS4 only allows the re-use of buildings in the countryside and is silent in relation to previously developed land. The practical purposes of RS3 and RS4 alongside each other may also need to be re-visited in light of the outcome of this consideration (since the main difference between the two is that RS3 allows the re-development of rural buildings, whereas RS4 only allows their re-use).

4. **Matter 8 Policy HOU5** – there is a need to consider what the policy intends to deal with (whether it is self-build or single site exceptions). If it is the later, it needs to be clear what the policy adds over and above JCS Policy 13.

5. **Matter 10 Town Centres** – there is a more general need to consider the SUEs and the role of both the district centres and the emerging local centres in the retail hierarchy in the Plan. The approach to them in terms of both the sequential and the impact tests in light of JCS Policy 12 also needs to be considered in the relevant policies (in terms of whether exemption from these tests is intended or not).

6. **Matter 11 Health and Wellbeing** – **Policy HWC1** - whilst it has been clarified that the Policy applies to applications for new health facilities, the criteria need to be re-assessed in light of this. They read as a list of objectives or statements of intent and it is not clear how a planning
application for a new health facility would be judged against them. Additionally, the second criterion relating to protecting existing facilities is covered by HWC2.

7. **Policy HWC3** – requires a comprehensive re-consideration as discussed in the hearings (based on proposed MM5 and MM95). As suggested, it needs to be clear that the first part of the policy is intended to apply to applications for new sports and recreation facilities. The use of the phrase ‘build on’ in the first sentence should be avoided. The requirements for new sports and recreational facilities set out in the first two paragraphs and in new criteria i to iii and the subsequent paragraph of the Policy need to be significantly refined to avoid repetition, and to be clear about what is expected of proposals for new sports and recreation facilities. It also needs to be made explicit that that the second part of the Policy applies to all development proposals. As suggested in the list of work, much more detail as to what will be expected of proposals, how contributions will be calculated and spent must be provided to justify this approach. The final two paragraphs of the policy explain how the policy would be implemented and should go in the supporting text.

8. **Matter 13 Rural Areas** – an overall review of the purpose and overlap of Policies RS1 – 5 is needed to look again at the numerous tiers of policy (JCS place shaping principles, general principles in rural areas, the requirements for each category of village (or the countryside), the principles in each settlement, and (if applicable) the development requirements on a particular site). Applicants need to be aware that all these policies would potentially apply and understand what specific purpose each has. In terms of Policy RS5, criterion h needs to be justified. The requirement to include where possible an appropriate element of employment in the redevelopment of historic farm buildings is not consistent with the Framework’s approach to the re-use of buildings in the countryside at paragraph 79c.

**Policy NEH3 Historically and Visually Important Local Green Spaces**

9. Additionally, I wish to raise a number of points in relation to Policy NEH3 Historically and Visually Important Local Green Spaces. Following the discussions in the Matter 12 hearing session, I have considered in detail the evidence submitted by the Council on this matter including the various Background Papers, the 2014 and 2016 River Nene Regional Park (RNRP) assessments of the proposed visually important open spaces, the Council’s Matter 12 statement and all the relevant Planning Policy Committee reports and minutes referred to in those documents.

10. Paragraph 99 of the Framework states that the designation of land as Local Green Space through local and neighbourhood plans allows communities (my emphasis) to identify and protect local green areas of particular importance to them. Paragraph 100 (b) states that the designation should only be used where the green space is (amongst other things) ‘demonstrably special to a local community’. On the basis of the information provided, I am unable to ascertain whether the proposed local green space designations were promoted or put forward by the local communities in Kettering.

11. I am aware that in 2012 a list of sites was compiled using a variety of sources (as set out in the 2012 Background Paper) including contacting all Town and Parish Councils. Whilst 65 sites resulted it is not evident which ones were forwarded by local communities. I also understand that following public consultation in 2012, 15 sites were removed, but a further 15 were added having been proposed by consultees. Additionally, a further consultation in 2016 led to 6 new sites being assessed by RNRP. Again, I am unable to determine which of these sites came from the local community. Although an example of the individual site assessment sheet (which includes a section to indicate the original source of the proposed designation) is included in Appendix 1 of the 2012 Background Paper, I have not been provided with the individual site assessment sheets.

12. In the absence of the necessary information to determine who promoted or put forward each of the Local Green Spaces now proposed for designation, and without sight of a particular community’s reasons for seeking the designation and explanation of why the space is considered to be demonstrably special, I have concerns in relation to the soundness of the policy (in particular
as to whether it is justified and consistent with national policy).

13. I appreciate that the identification of historically and visually important open spaces in Kettering has been undertaken over a long period of time and been subject to a number of rounds of consultation and specialist assessment. However, it is clear that the context in which the work has been undertaken has altered over this period. Notably, what were originally conceived as Historically and Visually Important Open Spaces (HVI) are now being designated as Local Green Spaces (LGS). The purpose of the 2012 Background Paper was to specify additional local provision of HVIs where they make a significant positive contribution to any settlement, Conservation Area or Listed Building. Since this work pre-dated the 2012 Framework, I appreciate that there was no need for sites to be demonstrably special to a local community at that time.

14. However, the 4 September 2014 Planning Policy Committee report ‘Site Specific Proposals Local Development Document – Options Consultation’ advises that the proposed HVI allocations would be reviewed in light of paragraph 77 of the 2012 Framework regarding LGS. This is documented in the 2015 Background Paper which finds on page 2 that the principle of designating HVIs conforms with the Framework (then para 76). However, this finding does not consider the ‘demonstrably special’ test. The summary assessment table on page 3 is intended to show how the sites have been considered in light of the Framework criteria. It includes in column 3 the question ‘is the site demonstrably special to the local community’. However, this question is not explicitly covered or answered for any of the sites in the table. The focus remains on the second part of the question which reads ‘and does it hold a particular local significance’.

15. RNRP carried out an assessment of visually important open space in Feb 2014 and reassessed some sites in light of consultation responses in June 2016. These studies made no assessment of ‘demonstrably special’. Sites were only assessed as to whether they were visually important open spaces. I accept that Page 1 of the RNRP updated assessment June 2016 states that new sites were assessed using the same methodology as the original assessment alongside the Framework’s criteria for local green space (including where the green area is demonstrably special to a local community). However, none of the subsequent assessments cover the ‘demonstrably special’ point.

16. The June 2016 Background Paper refers to the sites as LGS rather than open space in order to comply with the Framework. Even so, page 3 states that the sites which are included in the report have been identified because of their beauty (visual) and/or historic significance. No mention is made as to whether they are demonstrably special to a local community. In response to general comments referring to the need for sites to be demonstrably special to the local community, officers respond at page 5 to say that ‘At this stage sites have been assessed to determine whether or not they hold a particular local significance in terms of their visual (beauty) or historic impact. Some of these sites have been promoted through consultations or supported by communities through previous consultation responses. However, the consultation on the draft Site Specific Part 2 Local Plan will be a further opportunity for comments to be received from the local community in relation to their local significance’.

17. Overall the focus for identifying the sites has been overwhelmingly based on their visual or historic significance, and not on whether they are demonstrably special to a local community. This approach is not in line with the requirements of the Framework. The intention of paragraph 99 of the Framework is to allow communities to identify and protect local green areas. That the sites have come from the local community is the starting point, and in my view is the necessary precursor to the spaces being demonstrably special to a local community. In this instance, it seems that the Council has sought for the most part to promote previously identified HVI sites as LGS sites. Whilst I accept that some of these sites have been supported through the process, as things stand, I have seen no compelling evidence to suggest that they are demonstrably special to a local community.

18. On this point, I have been unable to locate copies of the representations supporting any of the local green space sites through the process (with the exception of the Regulation 19 consultations on
the Plan itself). Whilst I note the Council’s intention to provide more information regarding the community comments on HV1028, this needs to provided for all the sties.

19. Additionally, the 2016 Background Paper refers to some sites that were put forward by local communities but ruled out. Page 10 recognises a large number of comments received from residents seeking HV1055 in Desborough as a LGS. The commentary states that many of the comments highlight issues which are beyond the scope of this assessment such as recreational uses of the land and wildlife. This is so even though these are possible factors of significance highlighted in criterion b of paragraph 100 of the Framework. Page 16 considers four sites put forward by Dingley Parish Council. These were assessed by RNRP for visual importance, but not as to whether they were demonstrably special. Moreover, in the case of HV1086, RNRP concluded that although the site does not meet the criteria as visually important open space, evidence should be sought in regard to the sites amenity value to the local community and also to the tourism/economy of Dingley. Despite this recommendation, as far as I can see the site was not taken further.

20. Whilst it may be that these sites do not meet the requirements of paragraph 100 of the Framework overall, these examples of spaces being ruled out without consideration as to whether they are demonstrably special to a local community add to my concerns in relation to the NEH3 designation process.

21. On a further point, I would also question whether all the spaces meet the other criteria in Paragraph 100 of the Framework. In particular criterion c of Paragraph 100 states that the designation should only be used where the green space is local in character and not an extensive tract of land. The Planning Practice Guidance (the Guidance) states that local green space designation is a way to provide special protection against development for green areas of particular importance to local communities (ID: 37-005-20140306). The Guidance also states that there are no hard and fast rules about how big a LGS can be because places are different and a degree of judgement will inevitably be needed. However, it is clear that blanket designation of open land adjacent to settlements will not be appropriate. In particular designation should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name.

22. Whilst no details have been provided as to the site areas of the proposed sites for designation, it is clear from the Proposals Maps that a number of the sites are large and could be deemed to be ‘extensive tracts of land’. The following spaces are particularly significant in extent:

23. 
HV1070 Rushton is considered in the 2016 Background Paper which recognises that the site is relatively large. It arises from a number of previously individual sites combined and in practice takes in a number of field parcels and different distinct elements of grassland, woodland and parkland. Although parts of the site (36, 37, 38) were assessed individually by RNRP in 2014 it was not considered as a whole. I have concerns that this large consolidated area represents an extensive tract of land adjacent to the built up area.

24. 
HV1022, 23, 24, 25, and 26 Little Oakley are considered in the 2015 Background Paper which acknowledges that sites 23 and 26 to the south of the village are relatively large. Together they take in several field parcels outside the settlement boundary and, alongside with the other proposed spaces, they are far-reaching and considerable areas of land compared to the size of Little Oakley itself.

25. 
HV1021 Harrington is considered in the 2016 Background Paper which recognises it is a relatively large area. This considerable parcel of land projects well beyond the linear form of the built up part of the village to the north and is extensive in relation to the modest size of Harrington.

26. 
HV1013 and 80 Cranford incorporate all the land between Cranford St Andrew and Cranford St John. In combination they constitute a very considerable swathe of land between the two linear settlements which takes in a number of field parcels and distinct areas of land that extend well
beyond the built-up areas of both settlements.

27. Due to their size and coverage I am concerned that these spaces would result in the blanket designation of open countryside adjacent to the built-up areas of these settlements and would not meet the criteria in the Framework or the advice in the Guidance in relation to LGS.

28. These are my immediate thoughts on this matter, which I raise now in order to give the Council chance to respond as part of its work arising from the hearings. However, notwithstanding these points, I will need to consider whether the proposed Local Green Spaces meet all the terms of paragraphs 99 and 100 of the Framework. In addition to being identified by communities, 'demonstrably special' and not an extensive tract of land (as considered above), I will also need to be satisfied that the proposed spaces are in reasonably close proximity to the community they serve, and hold a particular local significance.

Changes to the Use Classes Order

29. It was agreed at the hearings that the Council would consider any necessary changes to the Plan arising from the recent changes to the Use Classes Order, and I note that this is reflected in the list of areas of work. In order to aid the Council in considering any such changes, I thought it worth setting out at this point my current thinking on this matter. The Government considers that the Use Classes Order requires a complete overhaul to better reflect the diversity of uses found on high streets and in town centres and to provide the flexibility for businesses to adapt and diversify to meet changing demands. These are the clear intentions behind the change. As such, rather than seeking to sub-divide the new Use Class E and introduce restrictive policies in this regard, where possible an approach which seeks to describe uses more simply without reference to the Use Classes would be more appropriate (for example shops, offices, restaurants or town centre uses).

Next Steps

30. I am content for you to start work on the areas of work in the list. As discussed at the final hearing session, a period of 2 weeks from the agreement of the list was considered an appropriate timescale. However, I would appreciate it if you would consider the important matters raised in this letter in relation to NEH3 and provide a response on these points to the same timetable. If you are unable to meet this timescale, please let the Programme Officer know when the work will be likely to be completed by. Once all of the agreed work has been provided, I will write to you again setting out the next steps in the process.

31. In terms of the detailed proposed wording changes arising from our discussions at the hearings and included in the list of work areas, it would be sensible for these to be included in the table of proposed MMs as they are worked up in detail. I am conscious that EXAM 8 already includes a considerable number of MMs and that there are two sets of MMs within it, as well as a number of originally proposed MMs now in strikethrough. This would benefit from being consolidated and simplified into an interim table of MMs that can be added to as necessary.

32. For each MM the schedule should show the text of the submitted plan amended with struck through text for deletions and bold underlined text for insertions as in EXAM8. However, the use of coloured text should be avoided. The MMs should be set out, as far as possible, in Plan order and each MM should be given a reference number. To keep the numbers manageable, it would be helpful for all the necessary changes to any individual policy (and/or section of the reasoned justification) to be combined into a single MM for that policy (or section). MMs that are consequential on a principal MM (such as those relating to reference to the Policies Maps in this instance) may be combined into a single MM that sweeps together all the policy or reasoned justification references that need to be changed to accord with the principal MM. The final column in the schedule explaining briefly the reasons for each MM should be retained to help representors understand why the MM is being proposed. The MMs currently in the table but are intended for deletion should not be included. The Map changes and Additional Modifications list should also be updated where necessary.

33. However, so as to avoid any unnecessary work, I suggest that any detailed wording changes relating to the policies which I indicated at the hearings that I would need to consider further
should not be prioritised for now. I must also stress that there is a possibility that further MMs may be necessary for soundness once I have considered these matters and in light of the Council's response to the points in this letter. After that I will need to see a revised draft schedule and may have comments on the detailed wording of the potential MMs (including those already suggested). I will also need to agree a final version of the schedule before it is made available for public consultation.

34. You should note that these comments do not represent my full findings on these matters, which will be set out in my final report (taking in to account any representations made). They are made now without prejudice to any subsequent comments I may have to make, or my final conclusions on the Plan. Should you have any queries, or require further clarification, please contact me through the Programme Officer. Please can you also make arrangements for this correspondence to be made available on the website for information only.

Yours sincerely,

Elaine Worthington

Inspector
6 November 2020