

Via Email: [localplans@sstaffs.gov.uk](mailto:localplans@sstaffs.gov.uk)

South Staffs Council  
Wolverhampton Road, Codsall  
South Staffordshire  
WV8 1PX

22 December 2022

Dear Sirs

**South Staffordshire Publication Plan (Regulation 19) November 2022 Representations on behalf of Crest Nicholson Midlands in respect of the Land at White Hill Kinver (Ref. 274)**

Avison Young is instructed by Crest Nicholson Midlands ('Crest') to make representations to South Staffordshire District Council's consultation on its Local Plan Review 'Publication Plan' (Regulation 19).

Crest is a leading developer with a history of creating well-designed sustainable communities for over 55 years.

Crest has recently purchased approximately 5.5Ha of land to the south of White Hill, in Kinver ('the site'), from Trebor Developments LLP who had previously promoted the site for housing development for a number of years. The extent of the site now controlled by Crest is shown at **Appendix 1**.

The northern part of the site, extending to approximately 1.6 Ha (hatched in blue at Appendix 1) is allocated for a minimum of 30 dwellings in the adopted Site Allocations DPD ('the existing allocation'). Outline planning consent was granted for the construction up to 38 dwellings and associated access and open space on the allocated site in September 2021 (Ref. 20/00621/OUT).

The southern part of the site, extending to approximately 3.9 hectares (outlined in red at Appendix 1), was released from the Green Belt and is currently designated as safeguarded land for longer term housing needs in the Site Allocations DPD. This part of the site is identified by Policy SA5 of the Publication Plan as a proposed housing allocation ('the proposed allocation'). Alongside the existing allocation, the site is identified as having a minimum capacity of 120 dwellings.

The purpose of these representations is to **support** the proposed allocation of the 'safeguarded land' to the south of White Hill, Kinver alongside the existing allocation for a minimum of 120 dwellings and to provide information to demonstrate that the site is **deliverable**.

These representations also comment on the soundness of a number of the draft development management policies in the Publication Plan in accordance with Paragraph 35 of the NPPF. Where issues of soundness have been identified, views have been offered on the types of Modifications that are required to make the policies sound.

The responses to each relevant policy are set out under the headings below.

## **Policy DS5 – Spatial Strategy**

Draft Policy DS5 confirms that the Publication Plan aims to direct growth to the most accessible and sustainable locations in accordance with the settlement hierarchy. The approach of locating development in the most sustainable locations is consistent with national policy.

Crest agrees that Kinver contains a wide range of services and facilities and that it clearly has the capacity to support housing growth, including through appropriate allocations in the Local Plan and windfall development, where it is consistent with other policies in the Plan. The allocation of land for the delivery of housing in Kinver is clearly sound and would contribute towards meeting identified housing needs in a sustainable location.

Notwithstanding the above, the wording of the final sentence of Policy DS5 is inconsistent with Paragraph 11 of the NPPF (i.e. the presumption in favour of sustainable development) and should be deleted.

## **Policy SA5 – Housing Allocations - Land at White Hill, Kinver (Ref. 274)**

Crest fully supports the proposed allocation of the land South of White Hill, Kinver (Ref. 274) for a **minimum of 120 dwellings**.

Kinver is a sustainable settlement and the proposed allocation makes effective use of non-Green Belt 'Safeguarded land' that has previously been assessed by the Council, and Inspector examining the adopted Site Allocations DPD (SADPD), as suitable for housing and identified to meet longer term development needs.

The allocation of this safeguarded land is necessary for the Council to be able to demonstrate compliance with paragraph 141 of the NPPF and that "*all other reasonable options*" have been examined fully before making amendments to Green Belt boundaries, as proposed, to meet identified housing needs.

### The Council's Site Assessment

The suitability of the land for housing was assessed in detail by the local planning authority and the Inspector during the preparation and examination of the SADPD. Recognising the suitability of the site for housing, part was allocated in the SADPD and part was 'safeguarded' for longer term development needs or to be allocated through the Local Plan Review. It is, has, therefore already been demonstrated that the site, as a whole, is suitable to deliver housing.

The Site Selection Topic Paper (2022) sets out the methodology followed by the Council in selecting housing sites. This indicates that, in respect of Kinver, the Council has followed a logical process based on proportionate evidence.

It confirms that the site results in no major negative scores in the Sustainability Appraisal and recognises that it is non-Green Belt land that is preferred over the release of further land from the Green Belt.

Overall, the site is assessed as performing better than other site options considered in Kinver, having regard to an appropriate range of considerations.

We note that the Site Selection Topic Paper suggests that the existing allocation is yet to secure outline planning permission pending completion of the Section 106 legal agreement. However, the decision was issued following completion of the S106 legal agreement on 14th September 2021. Aside from this minor error, it is considered that the Council's site selection process, for Kinver, which led to the identification of the site as a proposed allocation is robust, complies with national policy and is justified.

### Our Assessment

The NPPF establishes that to be considered '**deliverable**' sites should be **available** now, be **suitable** and **achievable**.

#### *Availability*

The site is available for development now. It has recently been purchased by Crest, an experienced house builder, with a significant track record of housing delivery, including in the West Midlands. There is no legal ownership or other technical impediments. The site is, therefore, clearly available for housing development immediately and Crest is capable of bringing the site forward for development very quickly.

#### *Suitability*

The site is located on the southern side of White Hill, contained to three sides by existing residential development. It is bordered to the east by the rear of properties fronting Windsor Crescent and Jenks Avenue. To the south and west the site is bounded by a belt of thick woodland located on rising ground. To the north west, north and east of the site are established residential areas. The land falls gently from west to east and features a 'knoll' of higher ground towards its centre.

The proposed allocation comprises agricultural land, used for pasture, divided internally by a series of hedgerows. Trees and hedgerows are largely confined to the site boundaries. There are, however, a number of individual mature trees within the site, some of which are protected by TPOs.

The site is located approximately 400m from Potters Cross Neighbourhood Centre and 1.2km from the extensive range of services and facilities available in the centre of the village, including:

- a Co-operative foodstore;
- a doctors surgery;
- convenience stores;
- a library;
- a pharmacy;
- hair and beauty salons;
- a sports and community centre;
- grocers;
- butchers;
- bakery;
- cafes;
- a range of other shops;
- takeaways;
- restaurants;
- public houses; and
- places of worship.

In addition to the facilities identified above, the site is approximately 800m from Edgecliffe High School, 500m from Brindley Heath Junior School and 900m from Foley Infants School. Safe walking routes are available to the schools. Staffordshire County Council has confirmed that the schools have the capacity to accommodate the overall scale of development contemplated in Kinver.

The site is also served by bus stops located within 200m of the site (services 242 and 580). These stops provide regular services to Stourbridge.

The site immediately adjacent and very well-related to the existing built-up area of Kinver. It is accessible to a wide range of services and facilities by sustainable modes of transport and would form a logical infill to the settlement boundary and a sensible extension to the existing allocation.

### ***Emerging Masterplan***

An illustrative masterplan was prepared by Townscape Solutions on behalf of Trebor and submitted to previous rounds of consultation on the plan-making process (Appendix 2). This showed how the site could potentially be laid out to deliver at least 120 dwellings in accordance with draft Policy SA5, with appropriate amounts of open space.

Crest has subsequently produced its own draft illustrative masterplan (Appendix 2), which also demonstrates how the site could be laid out to deliver at least 120 dwellings. This follows key design principles, including: i) retaining a view corridor through the site from White Hill towards Kinver Edge and Holy Austin Rock; ii) a principal point of access through the existing allocation from White Hill; iii) a central green spaces as a focal point within the site and to accommodate appropriate SUDS drainage infrastructure; and iv) an east-west connection in the south of the site maintaining the route of the existing Staffordshire Way.

The Masterplanning work undertaken responding to the site's opportunities and constraints and shows how the proposed allocation, could be developed as an extension to, and assimilate with, the masterplan which was submitted with the outline planning application on the existing allocation.

### ***Technical Considerations***

A comprehensive range of technical work has been carried out to support the promotion of the site through the plan-making process and preparation of an outline planning application on the existing allocation by a team of specialist technical consultants.

This work confirms the overall conclusion reached by the Council's own site selection process, that there are no constraints that might prevent development or make development unviable, as follows:

- **Flood Risk and Drainage** – The site is located within Flood Zone 1 (i.e. at a low risk of flooding) where residential development is appropriate. The masterplan has been

prepared to accommodate appropriate SUDs features to drain the site whilst ensuring that development does not increase flood risk elsewhere.

- **Ecology & Trees** - A comprehensive range of ecological surveys were undertaken by FPCR, on behalf of Trebor, in 2014, 2018 and 2019. A Tree Survey was also undertaken by Wharton in 2020. It is considered unlikely that development at the site would impact on ecological designated sites, including the Kinver Edge SSI. The hedgerows and trees within and on the boundaries of the site present the features of the greatest ecological value on the site. High quality trees and hedgerows would be retained where feasible. The site presents an opportunity to provide ecological enhancements and achieve net gains for biodiversity through the provision of a network of green infrastructure on site and through improvements off-site, where necessary.
- **Highways & Access** – The site would be accessed via a new priority junction on White Hill that was approved, in detail, as part of the outline planning application for the existing allocation. This access was designed to the appropriate standards and to accommodate the scale of development contemplated on the wider site (i.e. the proposed allocation). The site is accessible to a range of services and facilities by sustainable modes of transport. The draft Infrastructure Delivery Plan (2022) that accompanies the 'Publication Plan' suggests that potential junction improvements at the 'Potters Cross' junction, alongside measures to increase sustainable travel to schools, be considered by the developers of identified housing sites in Kinver. Highways work previously undertaken by Hub Transport Planning, on behalf of Trebor, indicates that that the development of the site for c. 130 dwellings could be delivered without unacceptable adverse impacts on the capacity of the local highway network. Furthermore, we note that the Local Highway Authority has not raised any concerns in relation to the proposed allocation in terms of highways and access. Nonetheless, Crest is aware of concerns previously raised by local residents about the operation of the Potters Cross junction, particularly at school drop-off and pick up times. It is willing to explore the issue and consider potential options to improve the operation of the junction and/or to increase sustainable travel to the school to assist in addressing local concerns and to deliver such improvements where these meet the relevant planning tests.
- **Heritage & Archaeology** – The Council's Historic Environment Site Assessment (2022) assesses the site as 'amber' ('medium') noting that whilst there is potential for indirect effects on the historic environment no significant effects that cannot be mitigated are anticipated. A Heritage Impact Assessment of the site has previously been undertaken by Richard K Morriss & Associates on behalf of Trebor and was submitted to support the release of the site from the Green Belt as part of the SADPD. This confirms that heritage impacts of residential development on the site will be very limited and confined to a minor change in the wider views from the north-eastern tip of Kinver Camp scheduled monument but that the setting will not be significantly altered and no other designated or non-designated heritage assets (including Holy Austin Rock and the Rock Houses) would be affected, such that any harm would be very limited and significantly "*less than substantial*". Nonetheless, in the light of the existing requirements in Policy SAD2, the Masterplanning work undertaken shows how a view corridor from the site access on White Hill, towards Kinver Edge and Holy Austin Rock, could be maintained, through the careful location and design of public open space and incorporation of single storey development. There are

clearly significant benefits that would arise from housing development at the site which would be capable of outweighing any heritage harm that might arise from development of the proposed allocation. A Desk Based Archaeological Assessment was also carried out by ADAS, on behalf of Trebor, in 2020 which confirms that archaeology is not a significant constraint and that the impact to any currently unknown buried archaeological remains present on the site could be mitigated by a suitably worded planning condition.

The site is, therefore, in a wholly sustainable, suitable location for housing, there are no unsurmountable constraints to development and the scale of development proposed can be accommodated on the site and in the village.

#### *Achievability*

There is a realistic prospect of housing being delivered on the whole site within five years.

Crest has recently acquired the site, having entered into initial pre-application discussions with the District Council in relation to the land, prior to completion.

Crest is in the process of preparing an application for the approval of reserved matters in respect of the existing allocation for submission in January 2023. Crest is aiming to making a start on site by late summer 2023 and to have the first dwelling complete by spring 2024. It is also carrying out further detailed design and technical work to enable it to submit a full planning application for the residential development of the proposed allocation, as soon as possible, following the adoption of the Plan, and to allow construction to proceed immediately following the completion of the existing allocation.

As set out above, there are no significant site constraints that might prevent development or make the development unviable.

Therefore, the development of the entire site is viable and can deliver housing within the next 5 years.

For the reasons set out above, the entire site is available, suitable, and achievable and is, therefore, deliverable.

#### *Other Benefits*

The land would provide a valuable source of housing on non-Green Belt land and its allocation in the Local Plan Review would generate a wide range of benefits including:

- the delivery of open market and affordable dwellings, boosting the supply in an area where there is a significant housing need;
- the provision of additional new housing in a sustainable location accessible to a range of local services in the village;
- the provision of housing, including accessible and adaptable housing and single storey living accommodation, suitable for the elderly;

- the delivery of a range of housing, including family housing of different sizes and tenures, supporting a more balanced age profile for the village;
- views to Kinver Edge and Holy Austin Rock being appropriately maintained within a high quality design;
- green infrastructure, including creation of formal and informal open spaces, wildlife habitats and the retention of the existing public right of way in a green corridor;
- a commitment to achieving net gains for biodiversity on site;
- a commitment to exploring opportunities to improve the operation of the Potters Cross junction and/or increase sustainable travel to school in the village;
- job creation (on site, during the construction period);
- the generation of additional population in the village resulting in:
  - increased local spend which would support the vitality and viability of local services and facilities in the village;
  - a more sustainable, vital and cohesive community in accordance with paragraph 78 of the NPPF;
  - additions to the local employment pool, assisting with economic growth;
  - the generation of additional Council Tax and new homes bonus; and
  - greater contributions to local infrastructure through appropriate site specific planning obligations.

In the light of the above, Crest fully supports the allocation of the land south of White Hill, Kinver for housing development.

## Other Development Management Policies

Crest also has comments on the soundness of the following draft development management policies:

- **HC1 - Housing Mix** – The draft Policy seeks to increase the supply of 2 & 3 bedroom homes and states that major housing development sites "*must*" include a minimum of 70% of properties with 3 bedrooms or less. Crest supports the principle of providing an appropriate range and choice of homes to meet the needs of the local area. However, Policy HC1, as worded, is inflexible (i.e. may fail to reflect changing needs over time or the specific needs of smaller sub-areas of the District) and could impact on the delivery of much needed homes. Policy HC1 should, therefore, be amended to state that major developments "*should*" provide a minimum of 70% of properties with three bedrooms or less, unless an alternative housing mix can be justified by other more up to date evidence

of need, for example, evidence of current market demand and more up to date local needs assessments.

The section of Policy HC1 which states that development which fails to make efficient use of land by providing a 'disproportionate' amount of large 4+ bed houses is ambiguous (i.e. it is unclear how a decision maker should react to development proposals). This section of Policy HC1 should, therefore, be deleted.

- **Policy HC2 Housing Density** – It is unclear whether the requirement for a minimum density of 35dph applies to allocated sites adjoining non-Tier 1 settlements. The Policy should be amended to provide greater clarity to the applicant and decision-makers.

The NPPF sets out guidance surrounding density standards at paragraph 124, and notes that "*Planning policies and decisions should support development that makes efficient use of land*" when considering several factors, such as:

- identified need and availability of land;
- local market conditions and viability;
- availability and capacity of infrastructure and services;
- desire to maintain an areas prevailing character and setting; and
- the importance of securing well-designed, attractive and healthy places.

The draft Policy appears to set a single minimum density for the majority of housing developments planned to come forward across the District. Having regard to the factors set out in national policy, this is unlikely to be appropriate and the policy should be amended to allow greater flexibility to reflect a range of other factors including market, viability, accessibility and character.

- **Policy HC3 Affordable Housing** – This policy proposes to require all major developments to provide 30% affordable housing, broken down by tenure as 25% First Homes, 50% Social Rent and 25% Shared Ownership. However, paragraph 3.2.2 and 3.2.3 of the Council's Viability Study (2022) indicates that 30% affordable housing "*may be challenging to achieve in some circumstances.*" The NPPF is clear that policies setting out the levels and types of affordable housing should not undermine the deliverability of the plan. Whilst it is anticipated that 30% affordable housing would be viable at Crest's site in Kinver, a 'blanket' requirement for 30% would not appear to be justified having regard to the Council's own evidence, nor be consistent with the NPPF.
- **Policy HC4 Housing for Older People** – This policy requires all major housing developments to demonstrate how proposals clearly contribute to meeting the needs of older and other people with specialist requirements. It states that it will expect bungalows, other age restricted single storey accommodation, sheltered / retirement living, and extra care / housing with care and other supported living to be provided as part of the wider mix on site. Policy HC4 is vague, it is unclear how it would be applied by a decision-maker in the consideration of individual applications for planning permission. This fails to comply with part d) of paragraph 16 of the NPPF and requires clarification to avoid situations where the ambiguity in policy leads to delays in delivery of much needed homes.



The policy also states that all major development will be required to ensure that 100% of market and affordable housing meets M4(2) standards. The Council has carried out its own assessment of 'need' for accessible and adaptable dwellings. Its assessment appears to suggest that there is a District-wide need for 3,978 accessible and adaptable dwellings to 2040. However, the Council's assessment does not appear to take account of the accessibility and adaptability of existing stock. The figure of 3,978 dwellings equates c. 40% of the overall housing target. On this basis, Crest is not convinced that a requirement for 100% of dwellings to comply with M4(2) standards is justified having regard to national policy and guidance.

- **Policy HC8 Self-build and Custom Housebuilding** – This policy requires major development to have regard to the need on the Council's Self-build Register and make provision of self and custom build plots to reflect this. It may be appropriate for a policy to encourage self and custom-build development on housing sites. However, it is not considered appropriate to require major developments to provide for self-builders. There is no legislative requirement, nor does national planning policy stipulate that housebuilders must provide / give over plots for custom housebuilding. Indeed, legislation and policy states that it is incumbent on local authorities, to ensure that it grants sufficient planning permissions to meet the identified demand for this type of housing. The NPPG encourages rather than requires Council's to engage with developers about the contribution their schemes might be able to make towards the supply of self and custom build plots and makes clear that this is only where housebuilders have expressed an interest in giving over land in this way. On this basis, this element of the policy is unsound and should be deleted.
- **Policy HC10 Design Requirements** – The proposed wording of this policy appears to seek to give the guidance in the South Staffordshire Design Guide SPD and other guidance documents the same weight as Development Plan Policy. This is clearly inappropriate as the NPPF confirms that whilst supplementary planning documents are capable of being a material consideration in planning decisions they "*are not part of the development plan*". The wording of HC10 should be amended accordingly.
- **Policy HC12 Space about dwellings and internal space standards** - This policy requires all new residential developments to meet or exceed the Government's Technical Housing Standards Nationally Described Space Standard (NDSS). National policy requires that local policies may only make use of the Nationally Described Space Standards (NDSS) where "*the need an internal space standard can be justified*". The NPPG sets out that "*where a need for internal space standards is identified, the authority should provide justification for requiring internal space policies. Authorities should take account of the following areas need, viability and timing*" (ID: 56-020-20150327). The Council's evidence is set out in Internal Space Standards Report (2021). This simply assesses whether properties in the Borough have historically been built to NDSS standards. It does not provide any evidence of the need for NDSS to apply in the Borough and the reasons why houses in the Borough need to be bigger. There is also a risk that an inflexible approach to the adoption of NDSS could have the unintended consequence of impacting on affordability and fails to recognise that well-

designed dwellings below the NDSS can provide good homes and affordable options. This element of the policy is unjustified and unsound and should be deleted.

- **HC13 Parking standards** – Appendix 1 sets out a requirement for 1 fast EV charge socket per house with on plot parking and 1 fast EV charge socket per for flats and apartments with allocated and unallocated spaces. Crest supports the provision of electric vehicle charging points, in principle, but believes that the references to EV charging in Appendix 1 of the Local Plan should be deleted. This is because Part S of the Building Regulations now set out the national requirements for the provision of EV charging infrastructure in new developments. There is no need to repeat these and no justification to go beyond the national requirements set out in Building Regulations.
- **Policy HC14, HC15 and HC18** – Relate to developer contributions. These policies should make specific reference to the CIL Regulation 122 tests for planning obligations to ensure that any requests for financial contributions towards health, education and sports infrastructure are appropriately justified, lawful and comply with national policy.
- **Policy HC17 Open Space** – This policy should be amended should allow for equipped play provision off site in circumstances where there is existing public open space or play facilities available on public open space within walking distance of the site that would benefit from either: i) new equipped play provision; or ii) the expansion and/or improvement of existing play equipment through financial contributions.
- **Policy EC12 Sustainable Transport** – Policy EC12 is poorly worded and does not appear to be consistent with the NPPF tests set out at paragraphs 110 and 111. The wording should be amended to provide clarity and consistency with national policy.
- **Policy NB2 Biodiversity** – Crest supports the principle of biodiversity net gain. However, the draft Policy should be amended to make it explicit that the 10% Biodiversity Net Gain will only apply following its introduction via the Environment Act which is unlikely to be until late 2023. The wording of the draft policy (parts a) and c)) also appear to be: i) inconsistent with the Environment Act, which does not refer to securing habitat “*in perpetuity*”; and ii) seeks to introduce a level of detail and prescription which is premature pending the publication of secondary legislation setting out how Biodiversity Net Gain will be managed nationally.
- **Policy NB4 Landscape Character** – The wording of this policy is inconsistent with that contained in NPPF which specifically talks about “*protecting and enhancing valued landscapes*” (our emphasis). It does not talk about maintaining and enhancing landscapes in general. The reference to ‘protecting and retaining’ “*all trees, woodland and hedgerows*” is also unjustified and inconsistent with national policy and guidance. The wording of this policy should be amended or the relevant sections deleted to ensure consistency with national policy.
- **Policy NB6 Sustainable Construction** – The Council proposes to set its own standards for sustainable construction. These are inconsistent with and go beyond the current Part L

Building Regulations (2021) and the Future Homes Standards which are set to apply to new housing developments from 2025. These standards set out the Government's intended route to net zero for the construction of new homes and provide a consistent basis for the construction industry and its supply chains to transition towards net zero. There does not appear to be any justification for the Council to set its own local standards in this case.

It is unclear how Part 3. of the policy, which relates to embodied 'whole life' carbon, would be applied by the decision-maker in considering development proposals (e.g. what might represent an acceptable level of reduction in embodied carbon). There does not appear to be any legal or policy basis for this.

Paragraph 2 of Part 3 of the Policy appears to seek to: i) ensure 'as built' performance of new buildings matches the 'design' specification, by way of planning condition; and ii) secure the monitoring of the sustainability performance of 10% of dwellings (of the Council's choosing) for the first five years of occupancy. This part of the Policy would appear to be unduly onerous and entirely unpracticable, particularly for schemes that would deliver owner occupied dwellings.

This policy should be deleted.

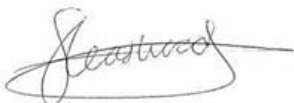
## **Summary**

For the reasons set out above, the site represents a suitable site for residential development in the village of Kinver that is available and achievable and is, therefore, deliverable in accordance with the NPPF. Crest is, therefore, fully supportive of the allocation of site 274 for a minimum of 120 dwellings under Policy SA5.

Notwithstanding the above, Crest has identified issues with the soundness of a number of the proposed Development Management Policies and has offered views on modifications required in order to make the Plan sound.

We trust that the responses above will be taken as Crest's formal representations to the Regulation 19 consultation and its request to be able to appear at relevant hearing sessions during the Examination in Public. However, should Officers or the Inspector require any further information at this stage please do not hesitate to contact me on 0121 609 8120 or [stephanie.eastwood@avisonyoung.com](mailto:stephanie.eastwood@avisonyoung.com).

Yours sincerely



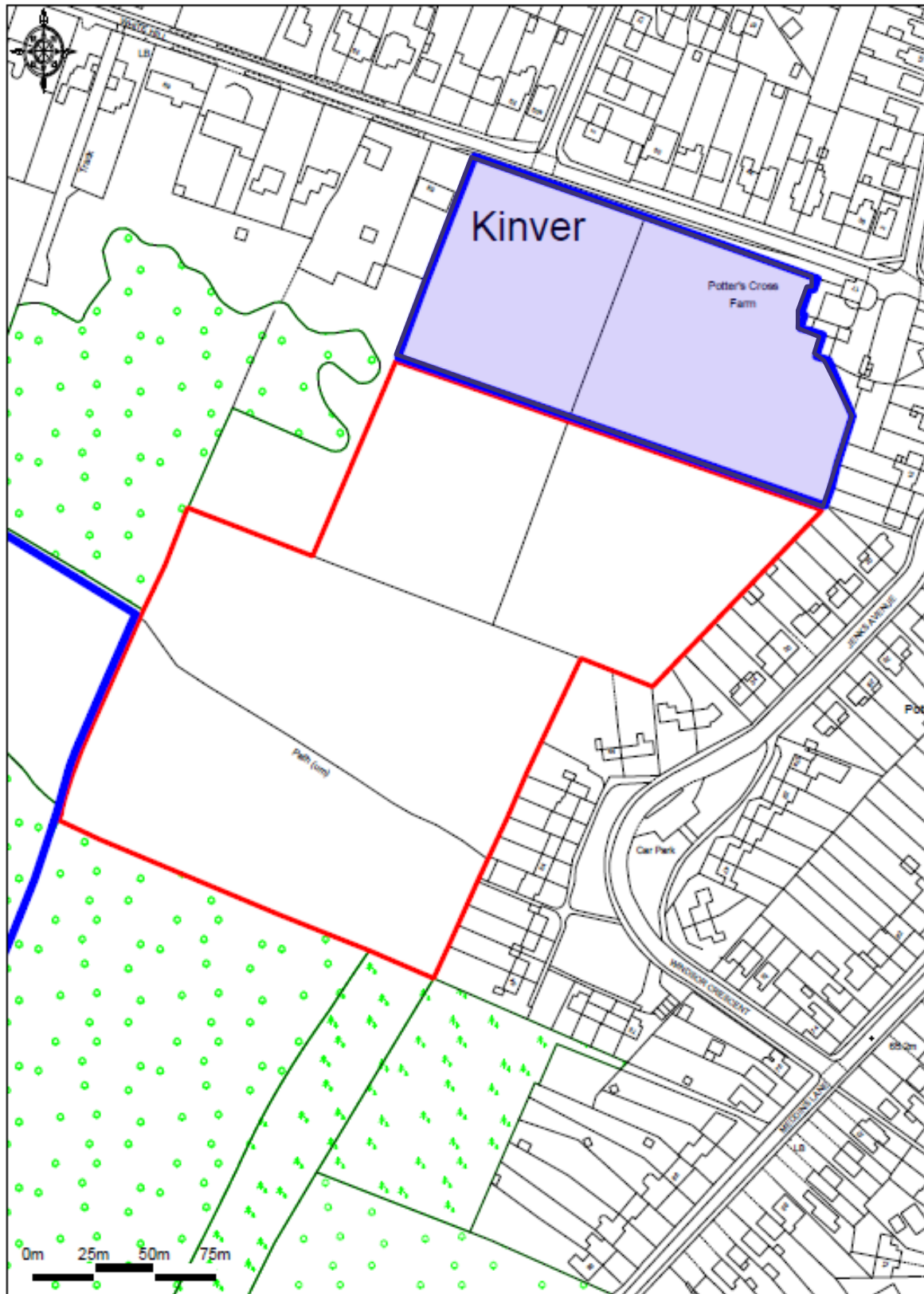
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## Appendix 1 – Site Location Plan



## Appendix 2 – Trebor Developments Illustrative Masterplan



Appendix 3 – Crest’s Draft Illustrative Masterplan

