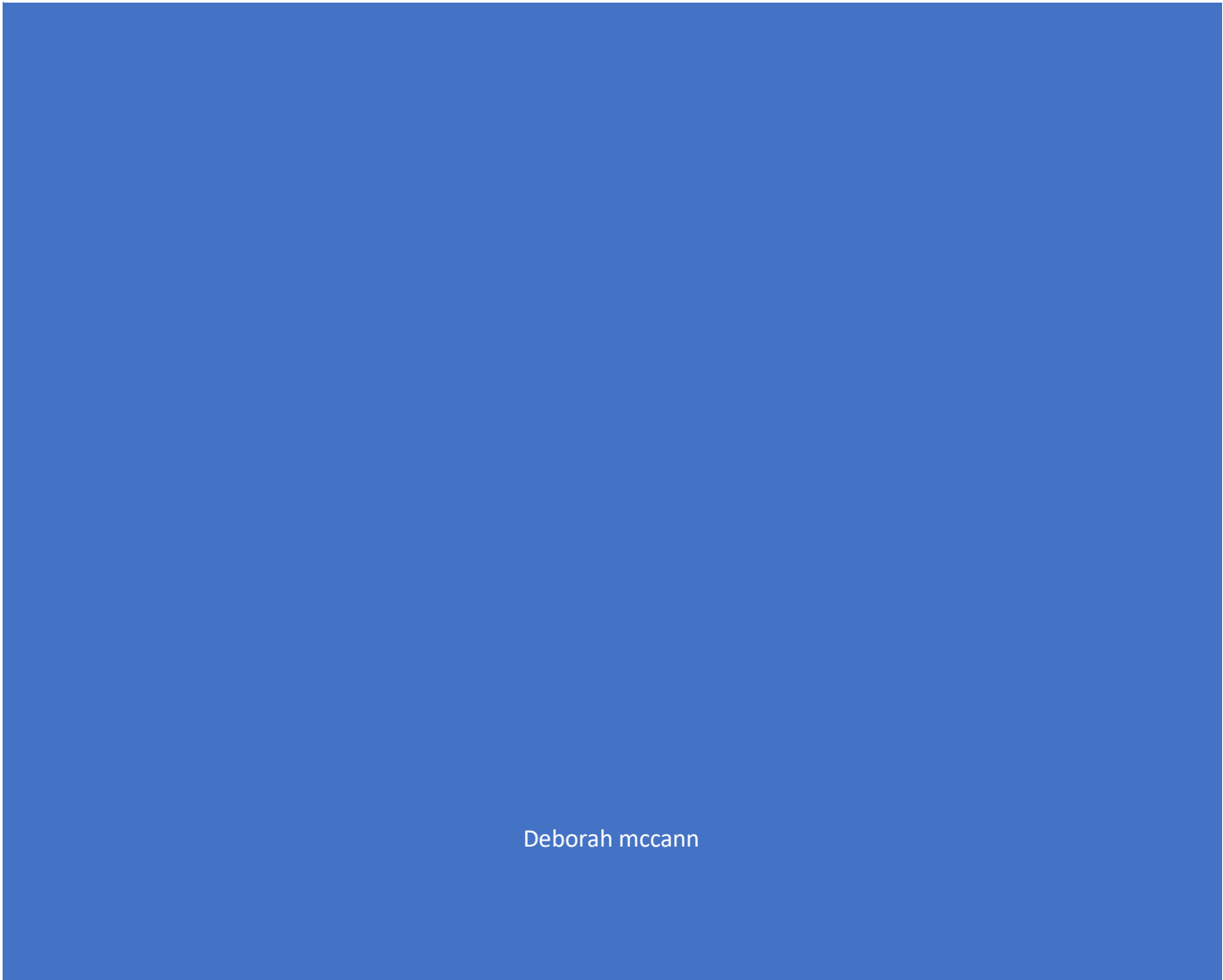


Independent Examiner's Report of the
Modbury Parish Neighbourhood Development
Plan



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8 December 2022

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SECTION 2

Summary

As the Independent Examiner appointed by South Hams District Council to examine the Modbury Parish Neighbourhood Plan, I can summarise my findings as follows:

1. I find the Modbury Parish Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.
2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Modbury Parish Neighbourhood Plan go to Referendum.
3. I have read the Modbury Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.
4. I find that the Modbury Parish Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.
5. The Modbury Parish Neighbourhood Plan Area is within the area covered by South Hams District Council. The development plan for the area is the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.
6. The Modbury Neighbourhood Development Plan was initially submitted under Regulation 15 in July 2020 and Regulation 16 consultation was undertaken between 3 August 2020 and 21 December 2020 however, on the 25 August 2021 the plan was withdrawn following a decision by the neighbourhood plan group and parish council to delete the proposed housing allocation to the east of Aylestone Park from the plan. This allocation had generated a large number of representations at Regulation 16. Those representations are available to view on the SHDC website. Following withdrawal of the plan and deletion of the allocation to the east of Aylestone Park, the plan was taken back out to consultation from the 11

July 2022 to the 12 September 2022., effectively a re -run of Regulation 16, and as a result of this further consultation additional representations were made. During my examination I have had regard for the representations submitted during the initial period of Regulation 16 consultation, where these were relevant to the modified plan and those submitted in relation to the modified plan.

SECTION 3

Introduction

1. Neighbourhood Plan Examination.

My name is Deborah McCann, and I am the Independent Examiner appointed to examine the Modbury Parish Neighbourhood Plan.

I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.

My role is to consider whether the submitted Modbury Parish Neighbourhood Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Modbury Parish Neighbourhood Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.

The Modbury Parish Neighbourhood Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I concluded that it was not necessary to hold a Hearing.

2. The Role of Examiner including the examination process and legislative background.

The examiner is required to check whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to
 - i) specify the period to which it has effect;
 - ii) not include provision about excluded development; and
 - iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood plan area.

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:

1. The Plan can proceed to a Referendum
2. The Plan with recommended modifications can proceed to a Referendum

Where a policy does not meet the Basic Conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.” As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with ‘Wider Community Aspirations’. I will not generally refer back to parties on these detailed revisions. I will make modification either in order to meet the Basic Conditions, to correct errors or provide clarification. However, the focus

of my examination, as set out in legislation is relatively narrow, I must focus on compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or are overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I am also very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community's intent in producing their neighbourhood plan.

3. The Plan does not meet the legal requirements and cannot proceed to a Referendum

3.1 I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Modbury Parish Neighbourhood Plan go to Referendum.

3.2 In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004
- the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect
- the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

3.3 I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements

South Hams District Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e. greater than 50%), voting in favour of the plan, then the Council must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.

SECTION 4

The Report

1. Appointment of the Independent examiner

South Hams District Council appointed me as the Independent Examiner for the Modbury Parish Neighbourhood Plan with the agreement of Modbury Parish Council.

2. Qualifying body

I am satisfied that Modbury Parish Council is the Qualifying Body.

3. Neighbourhood Plan Area

The Modbury Parish Neighbourhood Plan Area was designated on the 24 February 2015 under the Neighbourhood Planning Regulations 2012 (part 2 S6). The area covers the administrative boundaries of the Parish of Modbury. The Qualifying Body have confirmed that there are no other neighbourhood plans covering the designated area.

4. Plan Period

The Plan identifies the period to which it relates as 2014 to 2034 a period chosen to tie in with the development plan for the area, the Plymouth and South West Devon Joint Local Plan (the JLP).

5. South Hams District Council Regulation 15 Assessment of the Plan.

Modbury Parish Council submitted the plan to South Hams District Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. The Council has made an initial assessment of the submitted Modbury Parish Neighbourhood Plan and the supporting documents and is satisfied that these comply with the specified criteria.

6. The Consultation Process

The Modbury Parish Neighbourhood Plan has been submitted for examination

with a Consultation Statement which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

(a) It contains details of the persons and bodies who were consulted about the proposed Neighbourhood Plan;

(b) It explains how they were consulted;

(c) It summarises the main issues and concerns raised by the persons consulted; and

(d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed Neighbourhood Plan.

Having examined the documents and considered the focus of the Neighbourhood Plan I conclude that the consultation process was robust, well conducted and recorded.

A list of statutory bodies consulted is included in the Consultation Statement.

7.Regulation 16 consultation by South Hams District Council and record of responses.

The Modbury Neighbourhood Development Plan was initially submitted under Regulation 15 in July 2020 and Regulation 16 consultation was undertaken between 3 August 2020 and 21 December 2020 however, on the 25 August 2021 the plan was withdrawn following a decision by the neighbourhood plan group and parish council to delete the proposed housing allocation to the east of Aylestone Park from the plan. This allocation had generated a large number of representations at Regulation 16. Those representations are available to view on the SHDC website. Following withdrawal of the plan and

deletion of the allocation to the east of Aylestone Park, the plan was taken back out to consultation from the 11 July 2022 to the 12 September 2022., effectively a re -run of Regulation 16, and as a result of this further consultation additional representations were made. During my examination I have had regard for the representations submitted during the initial period of Regulation 16 consultation, where these were relevant to the modified plan and those submitted in relation to the modified plan.

A number of detailed representations were received during the consultation period, and these were supplied by the Council as part of the supporting information for the examination process. I considered the representations, have taken them into account in my examination of the plan and referred to them where appropriate.

8.Site Visit

I carried out an unaccompanied site visit to familiarise myself with the Neighbourhood Plan Area on the 29 July 2021.

9. Compliance with the Basic Conditions

The Qualifying Body have produced a Basic Conditions Statement. The purpose of this statement is to set out in some detail how the Neighbourhood Plan as submitted meets the Basic Conditions. It is the Examiner's Role to take this document into consideration but also take an independent view as to whether or not the assessment as submitted is correct.

I have to determine whether the Modbury Parish Neighbourhood Plan:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and

- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements.

Documents brought to my attention by the Borough Council for my examination include:

- Modbury Parish Neighbourhood Plan - the main document which includes policies developed in consultation with the community at various engagement events and workshops.
- Basic Conditions Statement - sets out how the plan meets the Basic Conditions
- Consultation Statement – sets out how the community, and other stakeholders, have been involved in preparing the Plan.
- Strategic Environmental Assessment (SEA) Screening Report
- Habitats Regulations Assessment (HRA) screening opinion

Comment on Documents submitted

I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Modbury Parish Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions.

4.10. Planning Policy

4.10.1. National Planning Policy

National Policy guidance is in the National Planning Policy Framework (NPPF). At the time of the preparation of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) July 2021(as updated).

To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan "must be in general conformity with the strategic policies of the local plan”.

Paragraph 29 states:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory 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 Modbury Parish Neighbourhood Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.

I have examined the plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to minor modification does meet the Basic Conditions in this respect.

4.11 Local Planning Policy- The Development Plan

The Modbury Parish Neighbourhood Plan Area is within the area covered by South Hams District Council. At the time of my examination, the Development Plan for the area was the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.

To meet the Basic Conditions, the Modbury Parish Neighbourhood Plan Neighbourhood Plan must be in “general conformity” with the strategic policies of the development plan.

The NPPF 2021 (as updated) states:

“20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision¹² for:

a) housing (including affordable housing), employment, retail, leisure and other commercial development;

b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);

c) community facilities (such as health, education and cultural infrastructure);
and

d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

Neighbourhood Plans should only contain non-strategic policies. The NPPF 2021(updated) states:

“Non-strategic policies

28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.

The distinction between strategic and non-strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e)) When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.

Planning Policy Guidance paragraph 41-076-20140306 sets out that:

“Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic”

I have examined the Modbury Parish Neighbourhood Plan and consider that, subject to modification, the plan is in general conformity with the Strategic Policies of the Development Plan and does meet the Basic Conditions in this respect.

4.12. Other Relevant Policy Considerations

4.12.1 European Convention on Human Rights (ECMR) and other European Union Obligations

As a ‘local plan’, the Neighbourhood Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC.

South Hams District Council carried out a Strategic Environmental Assessment (SEA) screening exercise (June 2019) in consultation with relevant statutory bodies. Having taken all of the relevant policies of the draft

Modbury Neighbourhood Plan (Pre-Regulation 14 Version submitted in May 2019) into account and assessed the potential environmental impact on designated sites and landscapes, it was the Council's opinion that a full SEA was not required for the Neighbourhood Plan as the plan's provisions will not undermine environmental, habitats or species considerations.

Despite the screening exercise being carried out in 2019 I am satisfied that the conclusion is still appropriate.

Habitats Regulations Assessment (HRA)

In June 2019, South Hams District Council as the competent authority carried out HRA to comply with Regulation 105 of the Habitats Regulations 2017. Under these Regulations, a competent authority must consider whether a relevant plan is likely to have a significant effect on any European sites before deciding to give any consent, permission or other authorisation.

The conclusion of the assessment was that Habitats Regulations Assessment (HRA) was not required since the plan's provisions will not undermine environmental, habitats or species considerations. Natural England agreed with this conclusion.

Despite the screening exercise being carried out in 2019 I am satisfied that the conclusion is still appropriate.

Prescribed Matters

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for a Neighbourhood Development Plan in addition to those set out in the primary legislation. Being that:

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended) in

relation to the examination of neighbourhood development plans.)

The Modbury NDP Screening Opinion confirms that the Modbury NDP will not cause significant environmental effects on these areas.

I am satisfied with this conclusion.

4.12.2 Sustainable development

Paragraphs 7 to 14 of the NPPF (July 2021 as updated) identify the components of sustainable development, and how planning applications and local plans can meet these requirements.

The Basic Conditions Statement sets out how the neighbourhood plan addresses the requirement to achieve sustainable development.

My conclusion is that the principles of Sustainable Development required in the NPPF have been taken into account in the development of the plan and its policies and where issues have been identified they were addressed by revisions to the document prior to submission. I am satisfied that the Modbury Parish Neighbourhood Plan subject to the recommended modifications addresses the sustainability issues adequately.

Human Rights

The Neighbourhood Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.

I am satisfied that the Modbury Parish Neighbourhood Plan has done so.

I am therefore satisfied that the Modbury Parish Neighbourhood Plan meets the basic conditions on EU obligations.

4.12.3 Excluded development

I am satisfied that the Modbury Parish Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.

4.12.4 Development and use of land

I am satisfied that the Modbury Parish Neighbourhood Plan, subject to modification covers development and land use matters.

General Comments

Planning Guidance on preparing neighbourhood plans and policies is clear, it states:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”

In order to provide clarity and to ensure that the policies in the Modbury Parish Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.

As I have found it necessary to modify a number of policies it may also be necessary to modify the supporting text within the plan to align with the modified policies, where this is necessary. The details of these modifications are set out within my comments on the related policies. My comments on

policies are in blue with the modified policies in red.

4.13 The Neighbourhood Plan Vision, Strategic Aims and Policies

4.13.1 VISION Statement

“Modbury will seek to embrace the future without compromising its character as an historic market town. It will support a vibrant community living in a safe, sustainable environment. It will be a place where development is in keeping with the existing built form and surrounding landscape and managed to meet the needs of residents and visitors.”

Objectives

- a. Maintain and enhance the historic character of Modbury through listed building and conservation area policies, the preservation of historic sites and buildings and appropriately scaled, phased and sympathetic development. Give high priority to upholding the guidelines laid out in the Modbury Village Design Statement (5 op.cit.) so that all new development is harmonious with the existing built forms which characterise the town;
- b. Enhance the vibrancy of the commercial heart of the town and provide facilities to support increased local employment;
- c. Deliver sufficient new homes, including a range of sizes, types and tenures to meet the needs of local people as well as to contribute to the growth of the town.
- d. Ensure that all new development has sufficient off-street parking for all residents.
- e. Ensure that all new development meets the highest standards of energy efficiency and sustainable construction and takes account of other environmental factors such as landscape impact, flood risk, topography and biodiversity.
- f. Promote a local scheme to deliver community renewable energy

- g. Retain and create new pedestrian and cycle routes through and around the town to reduce reliance on the motorcar and, in particular, provide improvements to pedestrian movements from the Palm Cross area to the Town Centre;
- h. Identify and safeguard or provide community spaces – buildings and open/greenspaces,
- i. Create a town square – that can be used by residents of all ages.
- j. Identify and safeguard or improve play provision to meet NPFA recommendations;
- k. Support a study being undertaken for a relief road for Modbury, respecting the sensitive landscape character of the AONB.
- l. Support a study being undertaken to identify how traffic flow and road safety might be improved around the town.

COMMENT

I am satisfied that the Modbury NDP vision and objectives were developed from the consultation process and that the policies within the plan reflect the vision and objectives.

4.13.2 MODBURY PARISH NEIGHBOURHOOD PLAN POLICIES

DEVELOPMENT, DESIGN AND CONSTRUCTION

POLICY MNP1: LOCATION, SCALE AND CHARACTER OF DEVELOPMENT

1. Within the settlement boundary the scale, density and character of development shall be in keeping with its site and surroundings and cause no adverse impacts on natural or historic assets, important views and skylines, local amenity, traffic, parking or safety.
2. Outside the town boundary development will be tightly controlled and only

permitted where it will meet the proven need for affordable housing for local people (as provided for by JLP policies TTV26 and TTV27 or where it is essential in order to meet agricultural, forestry or other small-scale needs which cannot be met elsewhere. The plan also aims to control the scale, density and character of development so that it is in keeping with the locality and remains geared to meet local housing needs).

COMMENT

I have carefully considered the proposed development boundaries and am satisfied that the process to establish the modified boundaries was thorough and consistent.

The Local Planning Authority are the decision making authority for planning applications and therefore neighbourhood plan policies should refer to “supported” rather than “permitted” within policies in the neighbourhood plan.

For clarity and to meet the Basic Conditions, the policy should be modified as follows:

POLICY MNP1: LOCATION, SCALE AND CHARACTER OF DEVELOPMENT

This policy establishes a settlement boundary for Modbury, as shown on Map 2.

1. Development proposals within the settlement boundary will be supported where:

i. the scale, density and character of development is in keeping with its site and surroundings; and

ii. natural or historic assets are protected in accordance with national policy and guidance and the Development Plan; and

iii. it protects important views and skylines; and

iv. there is no adverse impact on local amenity, traffic, parking or safety.

2. Outside the settlement boundary development will be tightly controlled and only supported where it will meet the proven need for affordable housing for local people (as provided for by JLP policies TTV26 and TTV27 or where it is essential in order to meet agricultural, forestry or other small-scale needs which cannot be met elsewhere. The plan also aims to control the scale, density and character of development so that it is in keeping with the locality and remains geared to meet local housing needs).

POLICY MNP2: DESIGN AND CONSTRUCTION

All new development will be encouraged to:

- a) be in scale and in keeping with its setting, protecting locally important views and skylines,
- b) respect and where possible enhance local heritage, character and vernacular, safeguarding local distinctiveness and paying due regard to the Modbury Village Design Statement 2003,
- c) retain and where possible enhance local landscape character and tranquility, including significant field patterns and hedgerows and important trees and woodlands, and incorporating suitable features to reduce scale, improve microclimate and habitat, and integrate new development with the landscape,
- d) include boundary features only utilising local natural stone for walls, clipped native species for hedges or railings, and traditional laid Devon hedge banks wherever development abuts open countryside,
- e) incorporate meters, bin storage and other features appropriately, conveniently and so as not to clutter the street scene,
- f) provide for its own car parking requirements, with residential development

providing at least two off-street spaces per dwelling, proportionate to size of dwelling and with facility for EV charging,

g) be safe, attractive, inclusive and accessible, reducing opportunities for crime and the fear of crime, in consultation with the community, and

h) safeguard against risks of contamination, erosion or flooding, and ensure satisfactory surface water drainage including Sustainable Urban Drainage Schemes (see Glossary).

All new development will also be encouraged to:

i) provide three phase electricity supply with sufficient capacity for renewable energy generation, storage and other zero carbon technologies,

j) preclude use of fossil fuels and enable the incorporation of zero carbon technologies to maximise sustainability and energy efficiency and meet the challenges of climate change.

k) in consultation with the community, consider community owned renewable energy options,

l) ensure that installations are registered with appropriate government incentive schemes to allow householders to benefit from energy savings,

m) exceed government standards for energy efficiency and sustainable construction, taking into account solar gain, sustainable building materials, building design and water efficiency, n) achieve zero carbon development in both construction and operation with any offsetting to be within the parish of Modbury, and

o) provide safeguards during and after construction to protect against environmental damage, local nuisance, unnecessary noise, light or other pollution.

COMMENT

I have no comment on this policy.

FUTURE DEVELOPMENT

POLICY MNP3: FUTURE DEVELOPMENT IN AND AROUND MODBURY

Future development sites in and adjoining Modbury should:

- a) conform to the town's traditional pattern of development,
- b) contribute to the integrity of the community by being well related to existing development,
- c) be well contained in the landscape,
- d) avoid breaching ridges or further extending existing breaches of ridges, and
- e) be well connected to the town centre, especially for pedestrians.

COMMENT

I have no comment on this policy.

HISTORY AND HERITAGE

POLICY MNP4: HERITAGE AND CONSERVATION

1. Development proposals are required to not harm but enhance non-designated historic and heritage assets and their settings. New up-to-date uses are encouraged and must retain, restore and enhance the historic fabric that makes each building special, incorporating sensitive retrofitting of energy efficiency measures.

2. Development proposals shall pay full regard to the provisions and guidelines contained in the Modbury Conservation Area Appraisal and the Modbury Village Design Statement, particularly for guidance on suitable details and materials.

COMMENT

The policy regime for heritage assets and conservation areas is set out in the NPPF 2021 and does not need to be repeated in a neighbourhood plan policy. For clarity and to meet the Basic Conditions, the policy should be modified as follows:

POLICY MNP4: HERITAGE AND CONSERVATION

1. Development proposals affecting heritage assets and their settings or the conservation area must comply with the requirements of national policy and guidance and the Development Plan. New up-to-date uses are encouraged where they retain, restore and enhance the historic fabric that makes each building special, incorporating sensitive retrofitting of energy efficiency measures.

2. Development proposals should pay full regard to the provisions and guidelines contained in the Modbury Conservation Area Appraisal and the Modbury Village Design Statement, particularly for guidance on suitable details and materials.

HOUSING AND DEVELOPMENT

POLICY MNP5: HOUSING DEVELOPMENT

1. New housing development (apart from replacement dwellings) shall supply homes for all ages, to create a healthy demographic spread, avoiding a focus on any one particular age group at the expense of others so that opportunities to own or rent a home are equally available to all. New development of 1, 2 and 3 bedroom homes will be particularly welcomed to help meet local housing needs for single people, couples and families and improve the balance of housing stock in the locality.

2. The delivery of new homes suitable for older residents will be particularly welcomed.

3. Each new housing development which exceeds 10 units shall provide the proportion of affordable homes consistent with JLP policy. The definition of

affordable homes, whether for purchase or rent, shall accord with national and local strategic policies.

4. Proposals for affordable housing schemes on rural exception sites will be supported where they meet the requirements of national and local strategic policies and the other policies of this plan.

5. A Community Land Trust or self-build solution will be welcomed as an alternative to the traditional types of affordable housing provision.

COMMENT

For clarity paragraph 5. of the policy should be modified as follows:

5. Affordable housing delivered by a Community Land Trust or as self-build will be welcomed as an alternative to the traditional types of affordable housing provision.

POLICY MNP6: PRINCIPAL RESIDENCE POLICY

1. This policy will only apply where it has been identified in the latest Census that in the plan area there are 20% or more "household spaces with no usual residents". Once this threshold has been exceeded new open market housing (excluding replacement dwellings) will only be supported where first and future occupation of each new dwelling is restricted in perpetuity to occupancy only as a 'principal residence' and this must be guaranteed through a planning condition or legal agreement.

2. A principal residence is defined as one occupied as the residents' sole or main residence, where the residents spend the majority of their time when not working away from home, and the condition or obligation on new open market homes will require that they are occupied only as the principal residence of those persons entitled to occupy them.

3. A replacement dwelling is defined as a single new build dwelling replacing an existing dwelling of equivalent size and design as the original dwelling.

4. Occupiers of homes with a Principal Residence condition or legal agreement will be required to keep proof that they are meeting the obligation or condition and will be obliged to provide this proof if and when the local planning authority requests it.
5. New unrestricted second homes will not be supported at any time.
6. Once the 20% threshold has been exceeded this policy will apply to all new build development, both allocated and windfall sites, where open market housing is proposed within the plan area.

COMMENT

I have concerns in relation to this policy. Firstly, as I set out in my general comments, Planning Guidance on preparing neighbourhood plans and policies is clear, it states:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

This policy seeks to control an event that may occur at some time in the future, when the level of second home ownership reaches a level of 20%. I have not been provided with evidence to support or justify the 20% threshold, why the impact of 20% of second homes would be a tipping point as opposed to 19% or 21%. This would in itself lead to a significant problem in successfully and consistently applying this policy in the determination of a planning application and defending it on appeal if necessary. There is, in addition, a lack of clarity on who would be responsible for gathering the necessary statistical information and how it would be monitored. I am also not convinced that relying on Census

information would be adequately robust. My conclusion on this point is that the policy does not provide the certainty and clarity required to meet the tests set out above.

Secondly, the evidence before me suggests the overall number of second homes across the parish in 2011 was 8.3% and I accept that this is likely to have increased since that date however this figure is significantly lower than other areas in the South Hams. Whilst I accept that there is an affordability issue within the parishes, I have not been provided with any evidence that links the number of second homes to the level of affordability or the impact of second homes on the local economy or local community, for example the sustainability of local schools due to falling roles resulting from increased second home ownership.

I accept that it is not easy to provide the information and statistics relating to ownership/ occupation of houses within any parish area however the imposition of a principal residence policy has serious implications, and it is necessary to ensure that there is strong evidence to support the imposition of such a restriction.

I have given very serious consideration as to whether or not I can find that this policy meets the Basic Conditions particularly having regard to the NPPF (2021) – “delivering a wide choice of quality homes” and “delivering sustainable development” together with how the policy meets the requirements of the Human Rights Act 1988 and other European Legislation.

I have also considered in detail Mr. Justice (now Lord Justice) Hickinbottom’s judgment in R (RLT Environment Ltd) v Cornwall Council in relation to Policy H2 of the St. Ives Neighbourhood Development Plan. He concluded:

“that Policy H2 is in pursuit of legitimate public interests identified in article 8(2), namely the interests of the economic well-being of the

country, and for the protection of the rights and freedoms of others.”

However, in this instance it was considered that there was adequate evidence to support the policy however, there is always a planning balance to be arrived at in consideration of this type of policy.

I have also carefully considered the potential for unintended consequences on the local housing market and the future delivery of affordable housing.

I accept that the level of second homes in the parish is likely to increase over the plan period and that this does have implications for the local community however at this time I am not satisfied that this policy meets the Basic Conditions. The imprecise nature of the policy and evidence required would make it difficult to apply consistently leading to uncertainty and the potential for challengeable decisions and implications for Natural Justice and Human Rights.

I acknowledge that there is community concern with regard to the growth of second homes and the impact this can have on local house prices, the local economy and local community. However, after careful consideration I have decided that this policy does not meet the Basic Conditions and couldn't be modified within the scope of my examination to do so. My decision is one of planning balance and I conclude that in this instance POLICY MNP6: PRINCIPAL RESIDENCE POLICY should be deleted.

I understand that this may disappoint the community however there is an opportunity to review the plan as a whole or just this policy should the situation arise when the impact of second home ownership can be adequately evidenced to support the introduction of a Principal Residence policy. The supporting text for this policy could be retained in the plan but should be modified as follows.

There is a growing concern in Modbury about the increasing number of properties which are second homes. The 2011 Census put the number of

second homes in Modbury at 8.3% but that figure is growing steadily. In neighbouring Bigbury a survey in 2018 found that 24% of properties were used as second homes. Homes in nearby communities, such as Bigbury on Sea and Salcombe are among the most expensive coastal properties in the UK and are increasingly unaffordable for local people.

Growth in the number of second homes in the area, resulting in rising house prices and adverse impacts on local communities, is likely to increase in future, undermining the longer-term sustainability of communities such as Modbury. It has been shown that permanent residents spend more locally than owners of second and holiday homes, thereby making a greater contribution to the sustainability of communities. This plan aims to help Modbury to remain a balanced and sustainable community. Currently the level of second home ownership is not at a level that could support a principal residency policy however, we are aware that this is an issue that South Hams District Council, as the local planning authority, are working to manage across the area and we would wish to work with them in the future to keep this matter under review and to implement a workable policy in the future.

ROAD SAFETY AND TRANSPORT

POLICY MNP7: SAFE MOVEMENT AND TRANSPORT

1. Development shall include good, safe pedestrian access and links with enhanced opportunities for walking, cycling, shared mobility and the use of public transport. Improved pedestrian links around the school and to recreational and green spaces are required, in particular at Palm Cross and to the recreation ground.
2. Development shall not worsen traffic congestion or adversely affect highway safety, traffic flow and/or parking conditions, particularly on the congested parts of the network highlighted on the Proposals Map. Proposals that would ease traffic congestion or enhance highway safety, traffic flow and/or parking provision will be supported.
3. Streets shall be designed and laid out so as to instinctively reduce traffic speeds through measures such as Home Zones rather than signs.
4. Support will be given to a study to identify how traffic flow and road safety

might be improved in Modbury.

5. Support will be given to a study to explore the feasibility of a relief road.

6. Good, safe pedestrian access to new housing development will be required.

COMMENT

There are elements of this policy which should be deleted from the policy and included in the community projects/aspiration section of the plan as follows:

4. Support will be given to a study to identify how traffic flow and road safety might be improved in Modbury.

5. Support will be given to a study to explore the feasibility of a relief road.

For clarity and to meet the Basic Conditions, the policy should be modified as follows:

POLICY MNP7: SAFE MOVEMENT AND TRANSPORT

1. Development proposals should include, where appropriate, good, safe pedestrian access and links with enhanced opportunities for walking, cycling, shared mobility and the use of public transport. Improved pedestrian links around the school and to recreational and green spaces are required, in particular at Palm Cross and to the recreation ground.

2. Development should not worsen traffic congestion or adversely affect highway safety, traffic flow and/or parking conditions, particularly in the congested parts of the network highlighted on the Proposals Map. Proposals that would ease traffic congestion or enhance highway safety, traffic flow and/or parking provision will be supported.

3. Streets should be designed and laid out so as to instinctively reduce

traffic speeds through measures such as Home Zones rather than signs.

6. Good, safe pedestrian access to new housing development will be required.

EMPLOYMENT AND BUSINESS

POLICY MNP8: BUSINESS DEVELOPMENT

1. New business, commercial and employment development, including home-based businesses and expansion of existing businesses, will be supported providing it will:

a. not worsen traffic congestion or adversely affect highway safety or traffic flow,

b. include adequate space and parking for employees, customers and deliveries, and

c. be in keeping with the locality and cause no harm to amenity or nuisance to neighbours.

2. A work hub for local start-ups and community-based enterprises will be supported in suitable premises.

3. In the designated business and employment zones (at Plymouth Road, Barrack Road, and Poundwell Street) changes of use of existing business or employment premises will not be permitted unless it can be demonstrated that the existing business is no longer viable and that reasonable efforts have been made to find an alternative business user by evidence of the premises being marketed for business use over at least 2 years.

COMMENT

I have no comment on this policy.

POLICY MNP9: TOWN CENTRE SHOPPING

In the town centre changes of use which will support its retail character will be welcomed. Changes of use which would undermine that character, detract from the appearance of the centre or adversely affect local amenity because of noise, smell, litter or other disturbance will be discouraged.

COMMENT

I have no comment on this policy.

COMMUNICATION

POLICY MNP10 BROADBAND AND COMMUNICATIONS INFRASTRUCTURE

1. New development shall incorporate infrastructure to support the installation of, and allow the future upgrade and maintenance of, fiber optic broadband technology.
2. All development will be required to submit a connectivity statement to set out the proposed broadband provision. The statement shall include which broadband supplier(s) can provide full fiber or fixed wireless coverage to the development to provide gigabit capable broadband provision.
3. On sites of 10 or more dwellings and on all non-residential sites, all new properties must be served with an appropriate open access gigabit capable fiber optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.
4. On sites of fewer than 10 dwellings all new properties shall be served with an appropriate open access fiber optic infrastructure to enable high speed and reliable broadband connection unless there is evidence which demonstrates that providing the required infrastructure is not feasible or economically viable.
5. Installed infrastructure should allow all premises that form part of the approved development to access superfast or better broadband prior to

occupancy.

6. The creation of a building to act as a fiber hub to enable fiber connections within the area will be supported.

COMMENT

Elements of this policy are overly onerous. Neighbourhood plan policy cannot require the submission of a connectivity statement or prescribe who can deliver broadband services. For clarity and to meet the Basic Conditions the policy should be modified as follows:

POLICY MNP10 BROADBAND AND COMMUNICATIONS INFRASTRUCTURE

This Plan supports the provision on site infrastructure for the installation of, and allow the future upgrade and maintenance of, fiber optic broadband technology.

a) Developers are encouraged to submit a connectivity statement to set out the proposed broadband provision.

b) New residential and non-residential development should, wherever possible include appropriate open access gigabit capable fiber optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.

c) The creation of a building to act as a fiber hub to enable fiber connections within the area will be supported.

SERVICES AND FACILITIES

POLICY MNP11: EXISTING COMMUNITY FACILITIES AND INFRASTRUCTURE

In order to help safeguard the sustainability of the local community, development that would result in the loss of an asset of community value will

not be permitted unless:

- a. there is adequate alternative provision in the parish, or
- b. the facility can be shown to be no longer viable.

The assets of community value safeguarded by the policy are the Health Centre, pharmacy, Post Office, primary school, Memorial Hall, QE11 pavilion and recreation ground, established children's play areas, public lavatories, St George's Church and St Monica's Church.

COMMENT

I have no comment on this policy.

MNP12: NEW COMMUNITY FACILITIES AND INFRASTRUCTURE

1. Development that will demonstrably support the vibrancy and vitality of the town and wider community or provide additional community facilities and infrastructure will be supported, providing it will:

- a. not worsen traffic congestion or adversely affect highway safety or traffic flow,
- b. include safe access and adequate parking provision for all,
- c. provide safe pedestrian access to the town centre and recreation ground, and
- d. be in keeping with the locality and cause no harm to amenity or nuisance to neighbours.

2. Proposals to expand electronic communications and broadband will be supported, providing:

- a. apparatus is erected on existing buildings or structures wherever possible;
- b. apparatus is kept to the minimum necessary for efficient operation, and c.

apparatus will be sited to minimise impacts on the AONB.

COMMENT

I have no comment on this policy.

MNP13: PRIORITIES FOR COMMUNITY FACILITIES AND INFRASTRUCTURE

New developments in Modbury will be required, where appropriate and where the requirement arises directly from the proposed development, to contribute through a Section 106 obligation or through Community Infrastructure Levy (see glossary), towards the following local objectives and in accordance with adopted standards:

- a. to improve safe pedestrian and cycle access to all facilities, particularly between the town and the Recreation Ground,
- b. to improve road safety around the school,
- c. to protect and improve public rights of way, footpaths and cycle routes,
- d. to ensure that children's play areas are evenly distributed across the town,
- e. to maintain and improve sports provision,
- f. to provide electric vehicle recharging points in the car parks,
- g. to increase the provision of residential car parking,
- h. to achieve the provision of public open space to contribute towards a necklace of spaces around the town,
- i. to develop community woodland for habitat and recreation.
- j. to maintain and develop community allotments and public community orchards for food security,

k. to create a civic space in the area behind The White Hart.

COMMENT

I have no comment on this policy.

ENVIRONMENT AND SUSTAINABILITY

POLICY MNP14: PROTECTING THE LANDSCAPE

Development shall not harm but conserve and enhance the landscape by:

- a. complying with national and local strategic policies for the AONB, including the South Devon AONB Management Plan,
- b. protecting important views, as shown on Map 8, ensuring sensitive development that would not adversely affect the countryside,
- c. safeguarding and enhancing local features that make a positive contribution to the landscape, particularly areas of green space and woods, and
- d. incorporating high quality landscape design which retains existing features, reinforces local landscape character, restores degraded landscapes, retains significant local heritage trees and groups of trees and provides mitigation from harm.

COMMENT

I have no comment on this policy.

POLICY MNP15: SUPPORTING BIODIVERSITY

Development shall not harm but maintain and enhance biodiversity paying due regard to:

- a. internationally important sites including existing, candidate or proposed Special Protection Areas and Special Areas of Conservation,

- b. nationally important sites including Sites of Special Scientific Interest, National Nature Reserves and Marine Conservation Zones,
- c. locally important sites including County Wildlife Sites, Local Nature Reserves, Ancient Woodlands, County Geological Sites and other priority habitats, and
- d. the network of wildlife corridors and ecological features that connect habitats and areas of biodiversity.

COMMENT

I have no comment on this policy.

POLICY MNP16: LOCAL GREEN SPACES AND PUBLIC OPEN SPACE

- a. New areas of public open space, play space, allotments or local green space (see Glossary), including a community woodland and community orchards, will be encouraged and required where necessary in association with development or otherwise.
- b. The Local Green Spaces identified in the plan will be safeguarded from development. Only minor development directly associated with and necessary for the public enjoyment of the green space will be permitted.
- c. The following areas are designated as green spaces in the plan:
 - 1. Millennium Meadow (Public open space, community orchard)
 - 2. North of Galpin Street (Community orchard/public open space)
 - 3. Palm Cross Green (Historic, local character)
 - 4. School field (School sports field and play area, community orchard, recreational, wildlife)
 - 5. Integral to the Palm Cross development (Public open space, allotment and

wildlife, play, proximity to housing)

6. Ayleston Park Green (Chestnut tree with Tree Preservation Order, historic, local character)

7. Allotments (Community amenity)

8. Champernowne playpark (Community recreation)

9. Dogapit meadow (Landscape buffer, green lung, local character, wildlife, attenuation for flood risk, planted for wildlife)

10. Memorial Hall grounds (Public amenity, play area)

11. Recreation ground (Public amenity, community orchard, play area)

d. A necklace of community woodland is proposed to be created around Modbury. As land on the margins of the town are made available for such a purpose they will also be designated as public open spaces. Developments on the town's margins should include such provision.

COMMENT

During the course of my examination, I sought clarification regarding the consultation of the owners of the proposed Local Green Spaces and any representations received. It was confirmed that the known owners of the proposed LGSs were directly consulted. I also sought clarification regarding the evidence supporting the proposed designations, this can be viewed on the SHDC website.

Paragraphs 99 of the NPPF 2021 states:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”

Local Green Space designation is a “restrictive and significant policy designation” equivalent to Green Belt designation. It is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full.

The NPPF 2021 states:

“101. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs, and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.

102. 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), tranquility or richness of its wildlife; and

c) local in character and is not an extensive tract of land.

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

Given that the Framework is not ambiguous in stating that a Local Green Space designation is not (my emphasis) appropriate for most green areas or open space, it is entirely reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements.

In addition, Neighbourhood planning guidance states:

" Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space."

Importantly, sites which are already subject to a statutory designation such as Historic Parks and Gardens or Scheduled Ancient Monuments are already subject to high levels of protection and would not benefit from an additional local designation. Likewise, sites which fall within the curtilage of a listed building or Conservation Area do not necessarily need additional protection under this policy as their importance and contribution to a settlement must already be considered if any application falls within or in the vicinity of these sites.

I have carefully considered the evidence put before me for the designations proposed. The decision to designate a particular site is a matter of planning balance and I have made my decision based on whether or not I consider the proposed designations meet the NPPF tests and I find that the proposed LGSs do meet the requirements of the NPPF.

Paragraph 103 of the NPPF states that the policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraphs 147-149 detail the policy framework

for development affecting the Green Belt. Paragraph 147, in particular states:

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

Designation as a LGS does not preclude all development. It protects a designated site from inappropriate development except in very special circumstances. Paragraph 149 of the NPPF (2021) sets out what types of development would not (my emphasis) be considered inappropriate:

" 149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

a) buildings for agriculture and forestry;

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously

developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

The following paragraphs should be deleted from the policy but included in the community projects/aspiration section of the plan:

a. New areas of public open space, play space, allotments or local green space (see Glossary), including a community woodland and community orchards, will be encouraged and required where necessary in association with development or otherwise.

d. A necklace of community woodland is proposed to be created around Modbury. As land on the margins of the town are made available for such a purpose they will also be designated as public open spaces. Developments on the town’s margins should include such provision.

For Clarity, the policy should be modified to reflect the requirements of the NPPF 2021 and recent caselaw (see Court of Appeal Judgement in the Case of The Queen (On the Application of Lochailort Investments Limited) and Mendip District Council Norton St Philip Parish Council 2nd October 2020) which clearly states that Local Green Space polices in neighbourhood plans should not deviate from the policy requirements of the NPPF. For clarity and to meet the Basic Conditions the policy should be modified as follows:

POLICY MNP16: LOCAL GREEN SPACES AND PUBLIC OPEN SPACE

The following are designated as Local Green Space. These areas

illustrated in Figure 17 and detailed in Appendix A3.

- 1. Millennium Meadow (Public open space, community orchard)**
- 2. North of Galpin Street (Community orchard/public open space)**
- 3. Palm Cross Green (Historic, local character)**
- 4. School field (School sports field and play area, community orchard, recreational, wildlife)**
- 5. Integral to the Palm Cross development (Public open space, allotment and wildlife, play, proximity to housing)**
- 6. Ayleston Park Green (Chestnut tree with Tree Preservation Order, historic, local character)**
- 7. Allotments (Community amenity)**
- 8. Champernowne playpark (Community recreation)**
- 9. Dogapit meadow (Landscape buffer, green lung, local character, wildlife, attenuation for flood risk, planted for wildlife)**
- 10. Memorial Hall grounds (Public amenity, play area)**
- 11. Recreation ground (Public amenity, community orchard, play area)**

Inappropriate development will not be supported except in very special circumstances.

SECTION 5

Conclusion and Recommendations

1. I find that the Modbury Parish Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.
2. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.
3. The Modbury Parish Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Plans in place within the Neighbourhood Area.
4. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening, meet the EU Obligation.
5. The policies and plans in the Modbury Parish Neighbourhood Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the Development Plan. At the time of my examination, the development plan for the area is the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.
6. I therefore conclude that the Modbury Parish Neighbourhood Plan subject to the recommended modifications can proceed to Referendum.

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8 December 2022

