

Urchfont Parish Council

**Urchfont Wedhampton and
Lydeaway
Neighbourhood Plan
2015 – 2026**

Independent Examiner's Report

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27 January 2017

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Summary

I have been appointed as the independent examiner of the Urchfont, Wedhampton and Lydeaway Neighbourhood Development Plan.

The Plan recognises that Urchfont has an important role to play as a 'Large Village' within the Devizes Community Area identified by Wiltshire Council's Core Strategy. It allocates nine sites for housing development. It takes the opportunity to designate a number of Local Green Spaces and to recognise and protect the very special heritage and unique landscape the Parish boasts. It is a Plan which embraces change.

It is a well-presented Plan, easy to read and digest. Policies are clearly identified and linked strongly to an overall vision and set of accompanying objectives.

A number of clarification queries were raised. In addition I requested a further period of consultation in relation to the Sustainability Appraisal incorporating Strategic Environmental Assessment.

Further to consideration of the policies in the Plan, I have recommended a number of modifications that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear and consistent.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore able to recommend to Wiltshire Council that the Urchfont, Wedhampton and Lydeaway Neighbourhood Development Plan go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
27 January 2017



1.0 Introduction

This is the report of the independent examiner into the Urchfont, Wedhampton and Lydeaway Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

2.0 Appointment of the independent examiner

I have been appointed by Wiltshire Council (WC) with the agreement of the Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and have examined a number of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

3.0 The role of the independent examiner

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).

The examiner is required to check¹ 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 area.

¹ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

The basic conditions² are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two basic conditions in addition to those set out in primary legislation and referred to in the paragraph above. These are:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects, and
- Having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this is not applicable to this examination as it refers to orders).

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

² Set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Wiltshire Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

4.0 The examination process including plan preparation and consultation

It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁶ PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷

The general rule of thumb is that the examination will take the form of written representations.⁸ 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.

After careful consideration of the documentation and all the representations, I decided neither circumstance applied and that it was not necessary to hold a hearing.

A 'Statement of Public Consultation' has been submitted. This shows that the Plan has been developed over a long period of time beginning in the Spring of 2012.

Pre-submission (Regulation 14) consultation took place between 16 November 2015 – 3 January 2016. As well as WC and adjoining Parishes, a number of consultees were consulted including Historic England and Natural England together with local groups and organisations. Every house in the Parish received a leaflet informing them of the consultation, posters were put up around the Parish and information published in the Redhorn News.

I am satisfied that the pre-submission consultation and publicity has met the requirements set out in the Neighbourhood Planning (General) Regulations 2012.

The submission (Regulation 16) consultation was carried out between 15 February – 30 March 2016. This attracted a number of representations which I have carefully considered. Some suggest additions and amendments to policies or the inclusion of different or revised sites. I have set out my remit earlier in this report. Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further additions or amendments are required. On occasion I refer to a specific

⁶ PPG para 055 ref id 41-055-20140306

⁷ *Ibid*

⁸ Schedule 4B(9) of the Town and Country Planning Act 1990

representation, but I have not felt it necessary to comment on each of them. Rather I have focused on giving reasons for any recommendations I make.

A number of representations made at the Regulation 16 stage expressed concern and formally complained about the process and transparency. Amongst other things, it was stated that Appendix A to the Plan (Site Briefs) submitted at Regulation 16 stage differed to what had been before the community at earlier stages of the plan-making process. Concerns were expressed about the transparency and reasons why Appendix A had been changed including potential conflicts of interest.

I referred these matters to WC as I consider they go beyond my remit and my letter to WC of 14 July 2016 is appended to this report and can be found in Appendix 2. WC considered the matters raised and responded to me by letter dated 7 September 2016. WC has confirmed that no further investigation will be taken in relation to the complaints made against members of the Parish Council for the reasons set out in their letter.

WC has also investigated the plan-making process in relation to Appendix A. WC inform me that information in the site briefs was amended between public consultation meetings on 25 October 2014, 1 November 2014 and 6 January 2015 and the Regulation 14 consultation. At Regulation 16 Appendix A was amended again to reflect the initial version seen and voted on by residents at the earlier public consultation meetings. WC consider that the changes to the site briefs are not sufficiently significant to compromise the plan-making process.

In my view there is no reason why the contents of the Plan or its appendices cannot change between the more informal consultation stages, the Regulation 14 stage and the Regulation 16 stage; indeed if everything stayed the same it would not be an iterative process. Of course the consultation with the community is rendered pointless if those leading the process do not take account of the feedback given by the community. The Regulation 16 stage gives the community and others an opportunity to comment on the submitted version of the Plan. In this case, based on the information available to me, I am confident that the plan-making process has been satisfactory and I am grateful to WC for investigating these matters of concern.

I also raised a number of queries with WC and the Parish Council of a clarification or factual nature. My list of questions is appended at Appendix 3.

I also asked for a further six week period of consultation in relation to EU obligations and this is detailed in the Strategic Environmental Assessment section later on in this report and further information as to why I asked for this can be found in my letter of 1 November 2016 attached at Appendix 4.

I made an unaccompanied site visit to Urchfont, Wedhampton and Lydeaway and the neighbourhood plan area on 3 July 2016.

I would also like to record my thanks for the support from officers at Wiltshire Council and the Parish Council have given me during the course of the examination. Where I recommend modifications in this report they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies they appear in ***bold italics***.

5.0 Compliance with matters other than the basic conditions

I now check the various matters other than the basic conditions set out above in section 3.0 of this report.

Qualifying body

Urchfont Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This complies with this requirement.

Plan area

The Plan area is coterminous with the Parish Council administrative boundary. Wiltshire Council approved the designation of the area on 28 May 2013. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. A Map of the Parish is to be found on page 2 of the Plan. It would be useful for it to be clear that this is also the Plan area and so I suggest a note to this effect is added.

- **Add to the key for the map on page 2 of the Plan “*and UWLNP area*”**

Plan period

The Plan covers a period of 2015 to 2026. This is clearly stated on the front cover of the Plan and is also confirmed on page 8 of the Plan and in the Basic Conditions Statement (BCS).

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement.

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community’s priorities for the future of their local area, but are not related to the development and use of land.

Where I consider a policy or proposal to fall into this category, I will recommend it be moved to a clearly differentiated section of the Plan. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but non-land use matters should be clearly identifiable.⁹ Subject to any such recommendations, this requirement can be satisfactorily met.

6.0 The basic conditions

Regard to national policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹⁰

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹¹

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at planningguidance.communities.gov.uk. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to this in preparing this report.

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹²

PPG indicates that a policy should be clear and unambiguous¹³ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and

⁹ PPG para 004 ref id 41-004-20140306

¹⁰ NPPF paras 14, 16

¹¹ *Ibid* para 184

¹² *Ibid* para 17

¹³ PPG para 041 ref id 41-041-20140306

supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.¹⁴

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁵ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁶

The Basic Conditions Statement (BCS) sets out how the Plan has responded to national policy and guidance, focusing on the core principles of the NPPF.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole¹⁷ constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.¹⁸

The BCS includes a short section setting out how the Plan contributes to sustainable development. A Sustainability Appraisal (SA) has also been prepared by the Steering Group and this shows that sustainability objectives have been at the heart of Plan preparation.

General conformity with the strategic policies in the development plan

The development plan consists of the Wiltshire Core Strategy Development Plan Document (CS) which was formally adopted on 20 January 2015 and a number of policies from the former District Councils Local Plans including the saved and retained policies of the Kennet Local Plan 2011 (KLP) adopted in April 2004 which are identified in Appendix D of the CS. In response to my query WC has confirmed that none of the saved policies in the KLP are considered to be strategic in nature.

The CS provides a framework for Wiltshire up to 2026. Its spatial vision is based around stronger, more resilient communities based on a sustainable pattern of development and it identifies six strategic objectives to help to achieve this. It is an economic-led strategy and the CS has 17 key objectives. It identifies 18 Community Areas and the Parish of Urchfont falls within the Devizes Community Area.

The BCS briefly discusses the Plan's general conformity with the six strategic objectives of the CS and relevant CS policies are referred to at the end of each topic section in the

¹⁴ PPG para 041 ref id 41-041-20140306

¹⁵ *Ibid* para 040 ref id 41-040-20160211

¹⁶ *Ibid*

¹⁷ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

¹⁸ *Ibid* para 7

Plan. Whilst it would have been useful for the BCS to be more comprehensive in its coverage, this has formed part of my own assessment.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

Wiltshire Council issued a screening opinion dated June 2015 which confirmed that the Plan is unlikely to result in significant environmental effects. The screening statement appears to have been prepared with the requirements set out in Regulation 9 of the Regulations. This included the requirement to consult the three statutory bodies namely the Environment Agency, Historic England and Natural England; all three bodies concurred with the conclusion a SEA is not needed.

However, I note that the screening statement was carried out at an early stage of plan-making and, amongst other things, was based on seven proposed site allocations. With the passage of time, the submission version of the Plan proposes to allocate nine sites of which three are different to the seven considered in the screening opinion. Part of the Parish (and therefore part of the Plan area) falls within the Salisbury Plain Special Area of Conservation (SAC) and Special Protection Area (SPA) and the North Wessex Downs Area of Outstanding Natural Beauty (AONB). As a result I consider it would be prudent for the screening to be redone given the differences between the Plan now and when it was screened in 2015 and in the light of the environmental characteristics of the Parish.

However, the Parish Council has also submitted a Sustainability Appraisal (SA) which incorporates SEA. The Report explains that the Steering Group considered that assessing social, economic and environmental effects would help to inform the Plan and that despite the screening opinion decided to incorporate SEA requirements for thoroughness.

Either a screening opinion or an environmental report must be included within the neighbourhood plan proposal when it is submitted to the local planning authority.¹⁹

Given that the SA has considered a more recent version of the Plan, including assessment of the sites, I decided to rely on the SA in meeting the SEA requirements. I consider that the SA Report is a comprehensive, well-written and well-presented document that deals with the issues appropriately for the content and level of detail in the Plan. This in line with PPG advice that confirms the SEA does not have to be done in any more detail or using more resources than is considered to be appropriate for the content and level of detail in the Plan.²⁰

Unfortunately though the SA was submitted without a non-technical summary. This meant that it did not accord with the Environmental Assessment of Plans and Programmes Regulations 2004. I therefore wrote to WC on 1 November 2016 on this matter and my letter is attached at Appendix 4.

The Parish Council and WC decided that the best way forward was to prepare a non-technical summary so that the SA would meet the necessary requirements. This was consulted on for a little over a six-week period between 22 November 2016 and 6 January 2017 to take account of the Christmas and New Year period. All consultees and respondents from the Regulation 16 consultation were contacted directly to bring this consultation to their attention and all previously made responses were rolled forward. It resulted in three representations which I have considered.

As a result of this additional work and period of consultation, I am now able to conclude that the SA has been prepared in accordance with Regulation 12 of the Environmental Assessment of Plans and Programmes Regulations 2004. Therefore EU obligations in respect of SEA have been satisfied.

One of the other queries I raised related to the SA. On WC's website a Scoping Report dated August 2013 and a SA dated August 2015 appear and WC confirm that these were the documents submitted to WC and the ones which have been available as part of the Regulation 16 consultation stage. In section 9 of the Plan under the heading "Associated Documents" and on the Parish Council's website, the Scoping Report is noted as "revised" and is dated January 2016 and the SA dated January 2016. At the very least this is confusing and the submitted documents should be the same whenever they are made available. For the avoidance of doubt, it is the documents submitted and available from WC's website I have relied upon.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a

¹⁹ PPG para 031 ref id 11-031-20150209

²⁰ *Ibid* para 030 ref id 11-030-20150209

European site, either alone or in combination with other plans or projects.²¹ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

Part of the Parish falls within the Salisbury Plain SAC and SPA. The River Avon SAC is within 5km of the Plan area. A small area of the Parish falls within the North Wessex Downs AONB.

WC has screened the Plan and issued a HRA screening determination on 27 April 2015 which concluded that the Plan would have no likely significant effects on the Natura 2000 network alone or in combination and that no appropriate assessment was required. The rationale for this is clear. The differences between the Plan indicated above, particularly in relation to the site allocations which are now not for any greater number of dwellings, would not, in my view, have altered these conclusions to such an extent that a HRA would now likely be required.

Whilst it would have therefore been helpful for the screening assessment to have been updated before the Plan went to examination, my judgment is that its conclusions remain valid.

I am also mindful of the determination's clear stance that it must be reviewed after the final version of the Plan has been produced.

Furthermore, I am mindful that ultimately PPG advises that it is the responsibility of the local planning authority to decide whether the Plan is compatible with EU obligations.²²

In the absence of any substantive evidence to the contrary, and based on the reviews that will now take place on the final version of the Plan, I am satisfied that the Plan is compatible with EU obligations.

European Convention on Human Rights (ECHR)

An Equalities Impact Assessment has been drafted. The Plan has had regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

²¹ PPG para 047 ref id 11-047-20150209

²² *Ibid* para 031 ref id 11-031-20150209

7.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. As a reminder, where modifications are recommended they appear as bullet points in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is presented to a high standard. The front cover is eye catching and there is a useful contents page. Policies are clearly differentiated throughout and are linked to the vision and objectives.

Plan Overview

As well as containing background information about the Plan, this section contains a succinct and clearly articulated vision for the Parish. The vision is:

“Urchfont Parish should be a place where...

- Our vibrant community spirit is fostered, protected and enhanced
- The visual qualities and rural character of the villages and their surrounding countryside are cherished and protected
- Local people have access to a home they can afford
- Change is managed in a sustainable way.”

The vision is underpinned by seven clearly worded objectives; all seek to address the issues raised by the community and relate to development and use of land matters.

1. Introduction

This is a well-written and informative section that summarises how the Plan developed. As a result this section will require some natural updating as the Plan reaches the latter stages of the process.

The vision and objectives appear on pages 9 and 10. Whilst the vision is the same as the vision contained in the Plan Overview section, the objectives are not exactly replicated. In the interests of consistency and accuracy, they should be and I consider that the objectives on page 6 of the Plan are more comprehensive and read better. For this reason the objectives on page 10 should be changed so they are the same as those found on page 6.

This section also contains some “development principles”. I think there is room for confusion here as these principles are largely contained within the subsequent policies where they relate to development and use of land matters. They therefore do not add to the Plan, but rather offer the opportunity for confusion. Therefore in the interests of providing a practical framework they should be deleted.

Finally, it is acknowledged that some community aspirations identified during the evolution of the Plan should be captured and taken forward separately.

- **Update the summary of the process section on page 9 as necessary and to include the latter stages of consultation and examination in the final version of the Plan**
- **Amend the objectives on page 10 of the Plan so that they are the same as those found on page 6 of the Plan**
- **Delete the seven bullet points from the section entitled “Development Principles”**

2. Housing

As I have identified earlier in this report, Urchfont Parish falls within the Devizes Community Area. Urchfont is identified as a ‘Large Village’ in the CS. CS Core Policy 1 sets out the settlement strategy defining ‘Large Villages’ as settlements with a limited range of employment, services and facilities where development will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. CS Core Policy 2 seeks to deliver the development needed in a sustainable manner and through a plan-led approach to development including through neighbourhood plans. CS Core Policy 12 refers to the Devizes Community Area and identifies an indicative figure of 490 homes for the remainder of the Devizes Community Area housing requirement as some 2,010 houses are directed to Devizes.

The CS advocates a flexible approach encouraging neighbourhood plans to respond positively to opportunities and allows neighbourhood plans to alter the ‘limits of development’.

Policy H1 Housing site allocations

This policy allocates nine sites for “up to 37 houses”. Each site is identified on Figure 2.1 and the policy contains a housing number for each site.

The principle of site allocations is acceptable, but the overall number of houses should not be capped as it may stifle a design-led approach and innovative and proper planning of each site. Furthermore even though WC has confirmed the level of development indicated is considered to be acceptable in the context of the Devizes Community Area, the figure should not be regarded as a maximum.

In addition whilst an indicative figure for each site can be included, it should just be that – indicative – and this should be made clear in the policy itself to allow for site specific considerations to be taken account of.

In terms of the site search, assessment and selection process, various sites were identified from WC's Strategic Housing Land Availability Assessment, contact with landowners and local knowledge as potentially available and suitable for development.

A two-stage site assessment took place; the first stage was based on a site assessment against what is termed "exclusionary constraints". Three sites were eliminated at this stage. The second stage used a balanced scorecard approach to list the remaining sites in order of preference. Then the community was asked to vote on the sites and this vote accounted for 25% of the final scores. The top scoring nine sites provide capacity to meet the identified level of growth. It is also important that any sites put forward are deliverable. In addition sites have been assessed comprehensively in the SA.

I consider the sites selected represent modest growth, proportionate to the size and characteristics of the settlement and will help to achieve a mix of types, sizes and tenures in line with national policy and guidance and the objectives of the CS.

With the passage of time, two of the proposed site allocations (sites b and g) have been subject to the submission of planning applications. This is not an unusual situation.

The Plan explains and refers to Appendix A Site Briefs and I have already referred to these in an earlier part of my report. It seems that as part of the site assessment and selection process individual site briefs were prepared for each site. I regard the briefs as forming part of the supporting and background information to the Plan. If it was intended that the briefs had more status then any particular requirements should have been contained in site-specific policies. The community's aspirations to see smaller properties suitable for young families or for older people and for development to respect local distinctiveness for example are contained within other policies of the Plan. I recommend later in my report that the appendices bar two should be removed as appendices and form part of a separate evidence base. This will avoid any confusion arising and ensure that the status of the briefs is clear.

The penultimate sentence of the policy retains an agricultural restriction at Hales Farm bungalow. There is no explanation for this in the supporting text. As a result it is not clear to me how this might affect the site allocation and therefore should be deleted.

The last sentence of the policy refers to Policies H2, H3, H4 and D1 of the Plan. Every proposal will need to be considered against any relevant policy in the development plan and therefore it is not necessary or appropriate to single out or refer to other policies.

Therefore subject to modifications that address these concerns to ensure the policy has sufficient flexibility and provides a practical framework to take account of national policy and guidance, the policy meets the basic conditions.

The site allocations are identified on Figure 2.1 on page 14 of the Plan. In response to my query, it seems that it was the intention that the settlement boundary in the KLP and carried forward in the CS, be amended to include all the nine site allocations. However, the existing settlement boundary shown is not the same as the one in the KLP and retained in the CS. Therefore to avoid any doubt and in the interests of accuracy, Figure 2.1 should be revised to show the whole extent of retained settlement boundary with the addition of the nine allocated sites.

A Housing Site Allocations Development Plan Document (DPD) is currently being prepared by WC; this will identify sites and review settlement boundaries, where appropriate. The CS also recognises that settlement boundaries can be reviewed through the neighbourhood planning process.

- **Replace the words “up to” in the first sentence of the policy with the word “*approximately*”**
- **Add the words “*approximately*” and “*dwelling*s” before and after the figure to each criteria a) to i) to make sure it is clear that the figure in brackets alongside each site address refers to an indicative number of dwellings so as an example a) will read “a) land at Hales Farm (*approximately 12 dwellings*)”**
- **Delete the penultimate sentence of the policy that reads: “The bungalow at Hales Farm will retain its agricultural restriction.”**
- **Delete the last sentence of the policy that reads: “Development proposals will need to comply with the requirements of other Neighbourhood Plan policies H2, H3, H4 and D1.”**
- **Revise Figure 2.1 which shows the settlement boundary and the allocated sites so that it matches the existing settlement boundary in the Kennet Local Plan and retained in the CS, but includes the nine allocated sites**

Policy H2 Form of housing development

Policy H2 is a criteria based policy that seeks to set out the form of housing development and encourages smaller two and three bedroomed units and homes for older people.

Two criteria give me some cause for concern. The first is e) as it refers to the Code for Sustainable Homes which has now been withdrawn by the Government. In a Written Ministerial Statement (WMS) of 25 March 2015, the Government announced that it is not now appropriate to refer to any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings in neighbourhood plans. Therefore I am left with little choice but to recommend deletion of this reference to take account of national policy and guidance noting that CS Core Policy 41 does cover similar issues.

The second criterion is i) insofar as it requires development to have “no adverse impact” on the amenity of residents. I understand the intention behind this criterion which is of course to be supported, but it is unlikely that development will not have any adverse impacts, rather the judgment to be made is whether any effect on the living conditions of nearby residents is acceptable. Therefore to provide the practical decision making framework required by national policy and guidance, I suggest a modification to positively word this criterion.

The policy does however in the way it is written lend support to any development proposals that meet these criteria, not just those within the limits of development or on the allocated sites. To ensure that it is clear the policy applies to sites which are themselves in appropriate locations, a sentence should be added.

The supporting text to this policy also refers to density setting out a minimum density of 30 houses per hectare and referring to the Community Infrastructure Levy (CIL). These are not matters which then appear in the policy, but nonetheless are useful supporting guidance and given the text recognises flexibility, I do not feel the text can be accused of trying to introduce policy through the back door and is, in this instance, acceptable.

- **Add to the first sentence of the policy “...on appropriate sites...” after “...development proposals...” and before “...which:”**
- **Delete the words “...level 4 (in full), of the Code for Sustainable Homes” from criterion e) of the policy**
- **Reword criterion i) to read: “*have an acceptable effect on the living conditions of residents in the locality.*”**

Policy H3 Provision of affordable housing

The CS identifies affordable housing as a particular issue in Wiltshire with increasing house prices. Core Policy 43 sets out the provision needed recognising the link to economic viability and the deliverability of sites as well as the need to respond to changing market conditions. The policy requires at least 30% affordable housing provision in the Devizes Community Area on sites of five or more dwellings subject to site-specific considerations. Tenure will also be negotiated on a site-by-site basis. A Parish Housing Needs Survey undertaken by WC in 2013 showed a need for 1, 2 and 3 bed homes with most need for 2 bed homes. Policy H3 seeks affordable housing provision of at least 30% on sites of five or more dwellings in line with CS Core Policy 43.

However, on 13 May 2016 the Court of Appeal gave legal effect to the policy set out in a Written Ministerial Statement (WMS) of 28 November 2014.²³ The WMS indicated that contributions for affordable housing should not be sought from developments of 10

²³ PPG para 031 ref id 23b-031-20160519

units or less and which have a maximum combined gross floor space of no more than 1000 square metres. In designated rural areas a lower threshold of five units or less can be applied. I am informed that the Parish is a 'designated rural area' and therefore the policy requires a modification to reflect the WMS.

The policy also requires the affordable housing units to be for those in housing need and with a local connection to Urchfont or its neighbouring Parishes. The local connection is defined within the policy. This reflects the local need referred to in the CS, but will not contribute to the wider needs across Wiltshire; for this reason I recommend a modification that gives the policy more flexibility in both criteria 1 and 4.

The policy also allows for exception sites in line with CS Core Policy 44. This would be in addition to the development sites identified in Policy H1.

All new properties are to be subject to a legal agreement retaining them as affordable homes in perpetuity.

Affordable rents are defined at 60% of the open market rents on page 18 of the Plan. Whilst this does not form part of the policy as it is not within the 'box', I agree with WC that this is quite onerous and may make developments unviable. In any case this figure is not evidenced sufficiently. Given the wide definitions of what constitutes affordable housing, it might be wiser to include more flexibility.

I therefore make a number of modifications to ensure sufficient flexibility so that the policy meets the basis conditions.

The explanatory text on page 17 of the Plan contains a statement that "There is a presumption against development outside the village boundary, except on the allocated sites in Policy H1." It is not appropriate to introduce such a presumption as this would be contrary to Government policy.

- **Change the words in criterion 1) which read "...on sites of 5 or more properties..." to "...on sites of *more than 5 properties...*"**
- **Change the word "and" in criterion 1) to "or"**
- **Delete the words "...for local people..." from criterion 4) of the policy**
- **Delete the sentence which reads "There is a presumption against development outside the village boundary, except on the allocated sites in Policy H1. However..." from page 17 of the Plan and capitalise "Building..."**
- **In the first sentence of page 18 of the Plan delete the words " In most cases affordable rents will be fixed at 60% of open market rents." and replace with "*Affordable rents will be fixed at a level which reflects local circumstances and the viability of the development.*"**

- In the second sentence on page 18 delete the words “This level recognises...” and replace with “*The agreed level will recognise...*”
- Add a new sentence to be inserted at the start of page 18 which reads “*Tenure will be negotiated on a site by site basis to reflect the nature of the development and local housing needs.*”

Policy H4 Parking for new developments

This policy sets car parking standards for new development. The requirements are onerous and increase in the Conservation Area. Whilst I appreciate that parking is a concern for the community and there is strong feeling that new development must provide adequate parking so that the existing situation is not worsened, I do not consider the line this policy takes has sufficient justification or flexibility in line with national policy and guidance. For those reasons, it needs modification in order to meet the basic conditions.

Amongst other things, the second element of the policy sets out internal space standards which neighbourhood plans are prevented from doing as I have explained earlier in this report in relation to Policy H2 and so I recommend a modification that will ensure the policy takes account of this national policy.

In other respects the policy ensures that sufficient parking is provided in perpetuity, but is useable and does not dominate the street scene.

- **Reword Policy H4 as follows:**

“1) Development proposals which generate a need for parking must provide adequate and suitable off-street parking. In the case of residential development, a minimum of two car parking spaces will be required for units with 1 and 2 bedrooms, a minimum of three car parking spaces will be required for units with 3 or more bedrooms unless it can be satisfactorily demonstrated that alternative provision would be appropriate on a specific site.

2) Parking spaces can take the form of spaces or garaging/car port facilities, but must be made useable and permanently available for parking. Garages should be designed to reflect the architectural style of the property they serve and be located so that they do not dominate the street scene. In most cases, permitted development rights will be restricted to ensure that garages remain available for parking.

3) Car parking areas should be usable and not detract from the setting of the buildings.”

3. Design

Policy D1 Design

The policy seeks a high standard of design which accords with the emphasis placed on design in the NPPF which states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.²⁴

The policy refers to a Design Statement that has been developed as part of the work on the neighbourhood plan stating that reference must be made to it. It would be preferable for it to be taken into account and I assume this is what is meant. Therefore to enhance clarity, I recommend a modification to this effect.

The supporting text on page 21 of the Plan indicates the Design Statement applies to the nine sites identified for development and extensions to existing properties, but there is no reason why it should not apply more widely and indeed the policy, which is clearly worded, is clear that it applies to all development. Therefore for the avoidance of any doubt, I recommend a modification to the supporting text.

Subject to these modifications, the policy takes account of national policy and guidance, is in general conformity with the CS, most notably Core Policy 57 which supports high quality design and protects local character and Core Policy 58 which refers to the historic environment, and will help to achieve sustainable development.

- **Reword criterion 1) to read: “Proposals for new development, including extensions, alterations and changes of use, will be of a high standard of design and take account of the guidance in the Design Statement which accompanies this Plan and is found at Appendix [insert correct Appendix number].”**
- **Change the last sentence on page 21 of the Plan which currently reads “A Design Statement has been developed to aid the look and feel of new houses on the 9 sites and extensions to existing properties.” to “A Design Statement has been developed to aid the look and feel of *all new development including extensions and alterations to existing properties and change of use proposals.*”**

4. Transport, Infrastructure and Community Facilities

The section begins by outlining the concerns and issues arising from transport related issues and explains some of the actions the Parish Council will seek to take. Some of these actions are not development and use of land related, for instance the reduction in speed limits. Therefore a sentence should be added to ensure that it is clear these are community aspirations and do not form part of the Plan.

²⁴ NPPF para 56 and Section 7

- Add a sentence which reads: *“It is recognised that some of these measures are not development and use of land related and therefore do not form part of the neighbourhood plan, but will be treated as community aspirations and separately pursued by the Parish Council.”* to the end of the section titled *“Urchfont Parish Council will work with Wiltshire Council to:”* on page 23 of the Plan

Policy TIC1 Local Traffic and Movement

Policy TIC1 contains a number of requirements; all are reasonable, but in order to provide the practical framework sought by PPG and to enhance clarity and flexibility, it is necessary to reword the policy. There is no need to cross reference Policy H4 as development proposals would need to have regard to all the relevant policies in the Plan.

It is also important that any contributions sought from development meet the statutory tests. To ensure this is the case they should only be sought where it is appropriate to do so and a modification is recommended to ensure that this is the case in line with the statutory tests set out in the Community Infrastructure Levy Regulations 2010 and the policy tests set out in the NPPF.

- **Reword Policy TIC1 to read:**

“1) Proposals for new development will need to:

- a) ensure that the development provides the necessary road infrastructure required as a result of, and to support, the development including access to the B3098 where appropriate***
- b) prepare a statement to show how the impact of construction traffic during the construction period has been minimised and ensure that the measures it contains are adhered to during the construction period***
- c) take every available opportunity to provide new, or enhance, footpath, cycleway and bridleway networks in the Parish.***

2) Developer or CIL contributions will be sought from new development where appropriate to fund improvements to footpaths, cycle routes and the bridleway network so as to increase safe and effective routes across the Parish.”

The next part of the Plan is subheaded “Infrastructure – Utilities” (page 24). Like the previous section it contains information about the action the Parish Council will take in relation to utilities. These are not development and use of land matters as I think the Plan recognises, but once again it is important to add a sentence to ensure that this is clear.

- **Add a sentence which reads: “It is recognised these measures are not development and use of land related and therefore do not form part of the neighbourhood plan, but will be treated as community aspirations and separately pursued by the Parish Council.” to the end of the section titled “Urchfont Parish Council, on behalf of the community will:” on page 25 of the Plan**

Policy TIC2 Protection of Community Facilities

This policy seeks to retain various community facilities which are listed in the first paragraph of the policy. In the case of the recreation facilities the policy allows for equivalent alternative provision. This latter criterion could be usefully amended to include improved provision as well. The NPPF promotes the retention and development of local services and community facilities²⁵ and supports the retention of sports and recreational buildings, but indicates that any loss resulting from proposed development could be replaced by equivalent or better provision.²⁶

It also refers to the “satisfaction of the community” as the test for any alternative provision; this is too uncertain and does not provide the practical framework for decision-making sought by national policy and guidance. There is a missing word in criterion 2).

Subject to modifications to deal with these concerns, the policy will meet the basic conditions and it particularly reflects CS Core Policy 49 and will help to achieve sustainable development.

- **Add the word “of” to criterion 2) so it reads: “Proposals for development which would result in the loss of any of the community facilities...”**
- **Add the words “...or better...” to criterion 4) after “...where equivalent...”**
- **Delete the words “...to the satisfaction of the community.” from criterion 4)**

Policy TIC3 New or Enhanced Community Facilities

Support for new community facilities including a health centre or community hall is given by this policy subject to satisfactory details. This will encourage such provision to come forward. The policy takes account of national policy and guidance, CS Core Policies 48 and 49 and will help to achieve sustainable development and ensure that the community has the facilities it desires. As a result the policy meets the basic conditions and no modifications are suggested.

²⁵ NPPF para 28

²⁶ *Ibid* para 74

5. The Built Environment – the Villages, Buildings and their Heritage

Policy BE1 Protection of local heritage

Heritage assets are clearly important to the community. This policy seeks to conserve and enhance the historic environment. Subject to some changes to ensure that the policy reflects the NPPF and provides the practical framework sought by national policy and guidance, the policy will meet the basic conditions.

- **Reword the policy to read:**

“The historic environment will be conserved and, where possible, enhanced.

Proposals for development in the Parish will be supported where:

- 1) Local distinctiveness is conserved and where possible enhanced taking into account all of the following criteria:***
 - a) the plot layout, scale, form and detailed design should reflect the character and appearance of the area***
 - b) historically important street patterns and boundaries, including trees, walls and railings should be retained and respected***
 - c) open spaces and views in and out of the area which contribute to its character should be unharmed***
 - d) traditional materials and colours reflecting their setting are used.***
- 2) Landscape planning should reinforce existing character***
- 3) The re-use of redundant historic buildings is supported***
- 4) Information accompanying any application should show the proposal in relation to its surroundings including where relevant a street elevation and section drawing and demonstrate how the Design Statement has been taken into account together with an assessment on how the proposal impacts on historic buildings, structures and features, and archaeological sites.”***

6. Countryside and Nature – Our Natural Environment

Policy CN1 Protecting the Landscape

Policy CN1 seeks to ensure that any development protects and enhances those natural features and village edges; in effect the rural setting of the Parish. In particular the policy refers to the landscape character of the area, views which are helpfully identified in Figure 6.1, tranquility and light pollution and the social and economic wellbeing of the community. The policy takes account of national policy and guidance and CS Core

Policy 51 and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are recommended.

Policy CN2 Protection of Biodiversity Sites and Features

The preamble explains that the Parish contains the Salisbury Plan Special Area of Conservation and Special Protection Area, two Sites of Special Scientific Interest (SSSI) together with various locally designated sites. These are shown on Figure 6.2 which is included in the Plan at a small scale which I found difficult to decipher. In the interests of providing a practical framework, I suggest that this useful plan is included at a more legible scale.

The policy itself covers three issues; the protection and enhancement of identified sites and features, development that affects more locally important sites and features and lastly, the impact of construction on sites of biodiversity value.

The NPPF²⁷ sets out the general principle of minimising impacts on biodiversity and providing net gains wherever possible. If significant harm results from a development and cannot be avoided, then mitigation, compensation or refusal of permission is advocated. Harmful effects on SSSIs should not normally be permitted. Permission should be refused for development that results in the loss or deterioration to irreplaceable habitats unless the need for, and benefits of, clearly outweigh any such loss.²⁸

The policy takes sufficient account of national policy and guidance, reflects CS Core Policy 50 and will help to achieve sustainable development. It therefore meets the basic conditions and no modifications are suggested to the policy itself apart from changing the phrase “identified sites” at the start of the policy to “designated sites”.

- **Include Figure 6.2 at a larger, more readable scale**
- **Change the word “Identified...” at the start of the policy to “Designated”**

Policy CN3 Local Green Space and Green Infrastructure

This policy seeks to designate 13 areas of Local Green Space (LGS). The areas are shown on Figures 6.3 and 6.5 and described within the text of the Plan itself.

The NPPF²⁹ is clear that local communities have the opportunity of designating LGS, but that such a designation will not be appropriate for most green areas or open space. The

²⁷ NPPF Section 11

²⁸ *Ibid* para 118

²⁹ *Ibid* paras 76, 77, 78

NPPF lists a number of criteria that such a designation needs to meet. It further states that identifying land should be consistent with local planning of sustainable development. From the descriptions in the Plan and from viewing each area at my site visit, I consider that all 13 areas proposed as LGS meet the NPPF requirements.

The policy refers to the areas as “proposed for designation” but the policy designates these areas and so it requires some minor rewording in the interests of clarity.

Secondly, the policy seeks to enhance footpath, cycleway and bridleway networks in the Parish and indicates developer or CIL contributions will be used for this purpose. This is in line with the basic conditions.

Thirdly, the policy seeks to protect green infrastructure or at least ensure that it is replaced by equivalent or better provision. This is in line with the basic conditions.

Fourthly, the policy requires all new housing to contribute to the DEFRA Geographic Information Strategy. In response to my query the Parish Council confirms that this reference is made in error and it should be the DEFRA Green Infrastructure Strategy. There is no mention of this in the supporting text or any justification for it and as a result it is not clear what this would entail and therefore this reference should be removed from the policy.

- **Reword the first sentence of paragraph 1) to read:**

“To maintain the quality and character of the local environment and to benefit the local community, development will not be supported in the following areas which are designated as Local Green Spaces and are shown on Figures 6.3 and 6.5;”

- **Delete criterion 4) from the policy**

7. Local Economy and Enterprise

Policy LB1 Protecting Existing Employment Facilities

Existing employment land and buildings are protected by this policy unless it can be shown that the uses are no longer viable for employment purposes and have been marketed for at least six months. I consider this provides an appropriate balance between safeguarding employment uses and flexibility should such sites no longer be appropriate and needed and takes its lead from the CS. The policy is clearly worded and meets the basic conditions.

There does seem to me however to be an internal conflict between the supporting text that identifies Wildman’s Garage for employment purposes and reports that the community view was to retain this and the allocation of this site for housing under

Policy H1. Therefore I have queried this with the Parish Council and I am informed that it is unlikely that Wildman’s Garage has a long-term future as a garage and the hope is that the business will relocate elsewhere in the Parish. Therefore the site would be available for development without being contrary to Policy LB1. I do not agree; if the site is allocated for housing under Policy H1, then it does not have to meet the criteria in Policy LB1. Therefore references to Wildman’s Garage should be removed from this section and the policy revised to make it clear that this site does not fall within the scope of this policy.

- **Remove references to Wildman’s Garage from Section 7 of the Plan**
- **Add an “or” after criterion b)**
- **Add an additional criterion c) to the policy which reads: “c) the site has been allocated under Policy H1.”**

Policy LB2 New or Expanding Businesses

The basic premise of the policy, to support new employment uses, aligns with one of the NPPF’s core planning principles which is to drive and support sustainable economic development and one of the CS’s strategic objectives which is to deliver a thriving economy. It provides a local interpretation to CS Core Policy 34.

The policy supports such uses within or adjacent to the Urchfont development boundary and the Lydeaway Old Potato Yard complex. The Urchfont development boundary is shown in Figure 2.1 and in the interests of clarity it would be helpful to cross-reference this in the policy itself. I cannot find any depiction of the Lydeaway Old Potato Yard in the Plan and I saw at my visit this is a large and sprawling complex. Therefore in the interests of clarity this site should also be shown on a map.

Criterion b) indicates that such uses should be “businesses which are appropriate to the rural environment”; I suspect this may cause some potential for argument and I noted that the Old Potato Yard complex has a great variety of businesses for instance at the present time. The NPPF reinforces the Government’s commitment to securing economic growth and urges the planning system to do everything it can to support sustainable economic growth. It supports all types of businesses and enterprise in rural areas.³⁰ Therefore, and taking into account the criteria that follow criterion b) which deal with the impact of such employment uses comprehensively, this criterion does not take sufficient account of national policy or provide the practical framework sought by it. As a result, I recommend its deletion.

Two criteria, g) and h), include the phrase “no harm” or “no harmful impact”. It is very unlikely that development gives rise to no harm at all. Usually there is some harm and

³⁰ NPPF Sections 1 and 3

this has to be balanced in the overall judgment of whether a development is acceptable or not. However, I understand the intention behind these criteria. It would be preferable to reword them so they are positively worded and provide the practical framework sought by national policy and guidance.

In other respects the policy is worded clearly.

Therefore in order for the policy to meet the basic conditions, the following modifications are recommended:

- **Add the words “*as shown in Figure 2.1*” after “...Urchfont development boundary...” in criterion a)**
- **Show the Lydeaway Old Potato Yard complex on a new figure and cross-reference the figure in the policy by adding the words “*as shown in Figure [insert figure number]*” after “...Lydeaway Old Potato Yard complex.” In criterion a)**
- **Delete criterion b) in its entirety**
- **Subsequent renumbering of the remaining criteria will be needed**
- **Reword criterion g) to read: “*the effect on local heritage and biodiversity is acceptable*”**
- **Reword criterion h) to read: “*the effect of the development and the creation of any new curtilage on landscape character is acceptable*”**

Policy LB3 Farm Diversification

This policy supports farm diversification and this principle is in line with the NPPF³¹ which supports the development and diversification of agricultural and other land-based rural businesses.

However, the policy contains three criteria which then restrict such diversification to retaining the primary use of any holding as agriculture, supporting sustainable farming and food production and ensuring criteria c) to j) of Policy LB2 are complied with. The criteria in Policy LB2 have been subject to modification and renumbering and so care should be taken with this approach. However, I do not consider that the first two criteria of the policy take sufficient account of national policy and guidance; they are overly restrictive and the policy offers little flexibility. In addition CS Core Policy 48 supports the conversion of rural buildings for employment, tourism, cultural and

³¹ NPPF para 28

community uses subject to a number of criteria and allows residential use in certain circumstances further illustrating the restrictive nature of Policy LB3.

There is inadequate justification in the Plan to support such a policy approach in this Parish. As a result, the policy is at odds with national policy and guidance and will not help to achieve sustainable development. It does not meet these basic conditions and therefore should be deleted.

- **Delete Policy LB3 in its entirety**
- **Subsequent amendments may be needed including the deletion of the reference to this policy towards the bottom of page 43 in the section titled “The following support UWLNP Policies...”**

8. UWLNP Revision Process

This section indicates that an annual ‘report’ on the Plan and its impact and progress will be given to Parishioners at the Annual Parish Meeting and this is an interesting idea that could be taken up by others.

I have a concern that this section refers to the ‘continual updating’ of the Plan. Whilst it is commendable that the Plan will be reviewed and monitored regularly over its lifetime, there is a process to be followed firstly by the Parish Council of course, but also a process in updating the Plan or any of its policies.

PPG³² advises that the neighbourhood plan policies remain in force for the lifetime of the Plan until they are replaced. Whilst there is no requirement to review or update a Plan or any of its policies, it is possible to update the Plan or part of it if desired. The process for making a replacement plan is the same as the process for making the existing one and so needs to be consulted upon, examined and is subject to referendum. I do not consider that this is clear from this section in the Plan as it is currently worded. The impression given is that the Plan, its policies and actions will be updated and I suspect there is a distinction to be made between the monitoring and review of policies and actions to see how things are progressing and how the Plan is performing and the updating of policies.

Reference is also made to Appendix T which I am informed should be Appendix U. I make comments on the appendices in the next section of this report.

Therefore in the interests of clarity and accuracy, I suggest the following modifications:

- **Ensure that it is clear what process will be followed by the Parish Council in reviewing and updating the Plan and explain the process to be followed should any changes to the Plan be sought by:**

³² PPG paras 084, 085, 086, 087 ref ids 41-084-20160519, 41-085-20160519, 41-086-20160519, 41-087-20160519

- **Changing the last sentence of section 2. to read: “The actions contained in the plan will be progressed and updated by UPC. Updates to actions, completion of actions, and relevant new actions will all be recorded in a *monitoring and review document accompanying the Plan.*”**
- **Adding the words: “*who will then arrange the further consultation and examination stages before a referendum is held*” after “...Wiltshire Council...” and before “...before they can be incorporated in the Plan.” to the first paragraph in section 3.**
- **Deleting the sentence “A log of all changes to policies will be kept in Appendix T.” from the first paragraph of section 3.**
- **Change the word “updated” in section 3.2 to “*reviewed*”**
- **Change the second occurrence of the words “up to date” in section 4. to “*under review*”**
- **Change the word “current” in the first paragraph of section 5. to “*under review*”**
- **Delete the words “...and any changes to it...” from the second paragraph in section 5.**
- **Delete the words “The latest version of” from the second paragraph in section 5.**
- **Reword the last sentence of section 5. to read: “*Continual monitoring of the plan will enable decisions on whether to extend the time period for this version of the plan, or to replace it in whole or in part, to be based on current rather than historical information.*”**

9. Additional Information

This is essentially a list of appendices and other documents.

Two issues arise; the majority of these appendices and other documents can be regarded as, and in fact are, background or supporting evidence documents. The exceptions to this seem to be the list of listed buildings and what is termed significant unlisted buildings and features and the Design Statement. All other documents do not directly relate to the contents of the Plan. In the interests of providing a practical framework, these other documents should form part of the evidence base, but should not be part of the Plan and not called appendices or be appended to the Plan. They can be made available as separate documents forming part of the background and evidence base. The Design Statement and heritage assets list should become Appendices A and B respectively.

Secondly, some of the appendices referred to throughout the Plan do not tie up with the appendices in this section. For example the Design Statement is referred to as Appendix T on page 10 of the Plan, but as Appendix S on pages 20 and 32. However, this observation is largely irrelevant given my recommendation above.

This will also deal with a representation that makes the point that the existing Appendix A (Site Briefs) appears to contradict Policy H2. Appendix A (Site Briefs) is not referred to in any policy (unlike the Design Statement) and for this reason it is part of the supporting evidence base; as it becomes a background supporting document then any room for contradiction is removed.

- **Make Appendix A the Design Statement and Appendix B the list of heritage assets and attach these documents to the Plan**
- **Rename all other appendices, annexes and associated documents as they are described on page 46 as “Background Documents” and list them on this page if desired indicating where they can be accessed or downloaded**
- **Consequential amendments to the Plan as a whole will be needed to remove any references to the other documents which are now no longer appendices, annexes or associated documents and to ensure that the new Appendices A and B are correctly cited throughout the Plan as relevant**

8.0 Conclusions and recommendations

I am satisfied that the Urchfont, Wedhampton and Lydeaway Neighbourhood Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Wiltshire Council that, subject to the modifications proposed in this report, the Urchfont, Wedhampton and Lydeaway Neighbourhood Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Urchfont, Wedhampton and Lydeaway Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Urchfont, Wedhampton and Lydeaway Neighbourhood Plan area as approved by Wiltshire Council on 28 May 2013.

Ann Shippers MRTPI
27 January 2017

Appendix 1

List of documents

Urchfont, Wedhampton and Lydeaway Neighbourhood Plan 2015 – 2026 and Appendices A – U, Annexes A – D and Associated Documents as described on page 46 of the Plan

Statement of Public Consultation

UWLNP Consultation Groups/Bodies

Basic Condition (STET) Statement June 2015

Urchfont, Wedhampton and Lydeaway Area Designation Decision 280513

Urchfont Settlement Boundary Proposal

Equality Impact Statement June 2015 (Draft)

Draft Urchfont, Wedhampton and Lydeaway Neighbourhood Plan Habitats Regulations Assessment Screening dated 27 April 2015

Strategic Environmental Assessment – Screening determination for the Urchfont, Wedhampton and Lydeaway Neighbourhood Plan dated June 2015

Sustainability Appraisal Scoping Report August 2013

Sustainability Appraisal August 2015

Wiltshire Core Strategy adopted 20 January 2015

Kennet Local Plan adopted April 2004

Various documents on the Parish Council website: www.urchfont-pc.gov.uk

List ends

Appendix 2

Letter to WC of 14 July 2016



146 New London Road, Chelmsford, Essex CM2 0AW
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14 July 2016

Dear Ms. McBride,

Urchfont, Wedhampton and Lydeaway Neighbourhood Plan Examination

A number of representations have been made at Regulation 16 submission stage expressing concern and formally complaining about transparency and process. It is stated that Appendix A to the Plan (Site Briefs) submitted at Regulation 16 stage is different from what the community has seen before at earlier stages of the plan making process. In particular, concerns are expressed about the transparency and reasons why Appendix A has been changed including potential conflicts of interest.

These are matters which I consider fall outside my remit as Examiner. However, I consider it is necessary for me to draw your attention to these concerns about the process and conduct of Steering Group members and to ask you to consider whether these concerns should be subject of an investigation by Wiltshire Council and to take any action deemed necessary.

Whilst the Council is considering this issue, I will continue with the examination unless and until I hear from you to the contrary. Please inform me of the outcome of your deliberations and I would suggest that the representators concerned are also notified.

Yours sincerely

Ann Skippers

Ann Skippers
Director

via email to Anna McBride, Planning Officer, Spatial Planning, Economic Development and Planning, Wiltshire Council, The Council House, Bourne Hill, Salisbury SP1 3UZ

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Appendix 3

Note from Examiner to WC and the Parish Council of 17 July 2016

Urchfont, Wedhampton and Lydeaway Neighbourhood Plan Examination Finalised Questions of clarification from the Examiner to the Parish Council (PC) and Wiltshire Council (WC)

Having completed my review of the Neighbourhood Plan (the Plan) and much of the evidence submitted in support of it, I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information.

Please ensure that your answers are as brief as possible and factual in nature. Please do not send or direct me to evidence that is not already publicly available.

1. The Plan and Figure 2.1 seem to amend the 'limits of development' boundary for Urchfont.
 - a. Please confirm that it was the intention of the Plan to revise the settlement boundary by including site allocations within it, but that in other respects the boundary remains the same as in the adopted development plan (would these boundaries be those in the Kennet Local Plan because if so I do not think they are the same?).
 - b. And assuming that is the case, Figure 2.1 seems to include some, but not all of the nine proposed site allocations (Land at Uphill and Land East of the Baishe seem to be excluded) unless I am misinterpreting Figure 2.1? Please confirm that I have indeed made an error or explain briefly why only some of the proposed site allocations have been included in the revised settlement boundary.
2. Important views are shown on Figure 6.1. One seems to be in the same vicinity as one of the proposed site allocations, land at Uphill. Is this correct or a discrepancy? Are the two designations compatible?
3. The supporting text to Policy LB1 (Protecting Existing Employment Facilities) refers to Wildman's Garage amongst other sites, but this site is also allocated for housing development under Policy H1. I would welcome your comment on this apparent contradiction in the Plan. It should of course be noted that if Wildman's Garage site were intended to be subject to Policy LB1, then this would affect the provision of housing numbers under Policy H1.
4. Please could WC confirm whether or not it considers that the level of growth proposed in the Plan i.e. 37 dwellings is in general conformity with the strategic policies of the Core Strategy? Whilst this is part of my own assessment, I am raising this point as I find WC's representation unclear on this matter.
5. Are any of the proposed site allocations a) to i) in Policy H1 subject to any planning permissions or planning applications? If so, please provide me with brief details of

the application number, the description of the proposal and the decision and its date.

6. Please set out briefly the site search, assessment and selection process.
7. Policy CN3 (Local Green Space and Green Infrastructure) 4) refers to the “Defra Geographic Information strategy”. Please briefly explain what this is and its relevance to the development and use of land.
8. Did WC carry out the Habitats Regulation Assessment screening? If not please confirm who did undertake the screening.
9. Please confirm whether the Parish falls within any European Sites or an Area of Outstanding Natural Beauty. If the Parish does fall within the River Avon SAC or is within 5km of it or is in the Salisbury Plain SAC/SPA or is within 5 or 15 km of it, please confirm.
10. There are a number of appendices and other documents embedded in the Statement of Public Consultation which unfortunately I cannot seem to access. Please would you be kind enough to email or send me copies of these documents. I can however access all the appendices attached in the Plan itself so if any of these are duplicated in the Statement of Public Consultation please just let me know and confirm this and there is no need to give me copies of these.
11. WC’s response to the Regulation 14 consultation is embedded in the Statement of Public Consultation and I cannot access it. Please email or send me a copy of this.
12. Some representations documented in the Statement of Public Consultation refer to a Change Management Plan or similar. Has this now been removed from the submission version of the Plan?
13. Would WC please confirm whether any of the saved policies of the Kennet Local Plan are regarded as being strategic in nature and if so let me know which policies are strategic? Please also confirm the full title and date of adoption of this plan.
14. Mention is made of the Devizes Community Area Joint Strategy Assessment. Please confirm what this document is and its status and where I might find it.
15. Is the area a “designated rural area” for the purposes of affordable housing thresholds? See Written Ministerial Statement of 28 November 2014
16. There does not appear to be an “Appendix U” (page 48 of the Plan). Please confirm.
17. The PC has undertaken a Sustainability Assessment (SA). On WC’s website there is a SA Scoping Report dated August 2013 and a SA dated August 2015. However, on the PC’s website the SA Scoping Report is noted as revised and dated January 2016 and the SA dated January 2016. These latter documents are included in the Plan at

Section 9 and termed 'Associated Documents'. Please let me know whether or not the correct documents have undergone the requisite consultation and been consulted upon at Regulation 16 stage.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of clarification questions is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils' websites as appropriate.

With many thanks
Ann Skippers
17 July 2016

Appendix 4

Letter from Examiner to WC of 1 November 2016



146 New London Road, Chelmsford, Essex CM2 0AW
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1 November 2016

Dear Mr. Way,

Urchfont, Wedhampton and Lydeaway Neighbourhood Plan Examination

I write to you in connection with the above Examination which I am undertaking via NPIERS.

As I am sure you know the High Court handed down a decision on 13 October 2016 which resulted in the Henfield Neighbourhood Plan being quashed on four grounds. The case, *R. (Stoneygate Homes Ltd & another) v Horsham District Council and Henfield Parish Council* [2016] EWHC 2512 (Admin), is an important one for a number of reasons but particularly in relation to ensuring the Henfield Neighbourhood Plan was compliant with EU law. For this reason I took the opportunity to review the Urchfont, Wedhampton and Lydeaway Plan in the light of this case before issuing my final report and have identified a number of matters of concern.

I set out the matters here. Wiltshire Council (WC) issued a Strategic Environmental Assessment (SEA) screening opinion dated June 2015 which confirmed that the Plan was unlikely to result in significant environmental effects. The screening statement appears to have been prepared in accordance with the requirements set out in Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR). This included the requirement to consult the three statutory bodies namely the Environment Agency, Historic England and Natural England; all three bodies concurred with the conclusion a SEA is not needed.

However, I note that the screening statement was carried out at an early stage of plan-making (as indeed it should be) and, amongst other things, was based on seven proposed site allocations. With the passage of time, the submission version of the Plan proposes to allocate nine sites of which three are different to the seven considered in the screening opinion. There are then significant differences between the submitted Plan and the one which was screened in July 2015. Part of the Parish (and therefore part of the Plan area) falls within the Salisbury Plain Special Area of Conservation and Special Protection Area and the North Wessex Downs Area of Outstanding Natural Beauty. As a result I consider it would have been prudent to rescreen the Plan.

The Parish Council has also submitted a Sustainability Appraisal (SA) which incorporates and meets the SEA requirements. The SA Report explains that the Steering Group considered that assessing social, economic and environmental effects would help to inform the Plan and that despite the screening opinion decided to incorporate SEA requirements for thoroughness.

Planning Practice Guidance advises that either a screening opinion or an environmental report must be included within the neighbourhood plan proposal when it is submitted to the local planning authority.

Given that the SA has considered a more recent version of the Plan, including assessment of the sites and alternatives, it would be appropriate, in my view, to rely on the SA in meeting the SEA requirements. This document then in itself needs to comply with the EAPPR. I appreciate that the SA has been prepared against the backdrop of the screening opinion which indicated a SEA was not needed, but nonetheless as I now propose to rely on the SA to meet EU obligations in respect of SEA, it needs to be robust and

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comply with the EAPPR. No non-technical summary has been included with the submitted documents. As a result, in this case, the SA does not comply with the EAPPR.

Whilst I am aware that it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of the plan proposal submitted to it have been met in order for a plan to progress and ultimately must decide whether a plan is compatible with EU obligations, I feel it is appropriate for me to draw this to your attention and to see if we can find a way forward on this given the nature of the issue.

It seems to me that there are three options; a) I can deal with the Plan and continue with the examination but as you will appreciate I would be likely to recommend to you that the Plan should not proceed to a referendum, b) the SEA screening can be redone given the significant differences between the Plan as screened and as submitted and in view of the environmental characteristics of the Plan area with the requisite periods of consultation or c) halt the examination to allow a non-technical summary to be produced with the requisite periods of consultation.

Whilst it is entirely your decision how you wish me to proceed, it seems to me that option c) may be the most pragmatic way forward. In this scenario, the non-technical summary can be prepared and then placed on VVC's website with a note that indicates a further six-week period of consultation is being undertaken because of the addition of the non-technical summary and invites comments on the non-technical summary, confirms all previous representations will be rolled forward. All those who have made representations should be directly contacted via email or letter alerting them to this situation advising them of the additional consultation and the statutory consultees and any other Schedule 1 consultees you consider necessary should be alerted to the same. The six-week period should run from the last notice (either the website or individual contacts).

I also note that one of the clarification queries I raised earlier in the examination related to the SA. It is therefore important that you ensure the non-technical summary relates to the correct and submitted documents.

No doubt this letter will come as a disappointment to you and the Parish Council and others involved in the development of this Plan. However, it is, I feel, important to ensure that all the basic conditions are properly met and that the Plan once it proceeds to its latter stages can do so with confidence. The Henfield judgment is a significant one and it serves a reminder about the importance of ensuring that the documents submitted are in order and that SEA requirements have been thoroughly considered.

Once the Council has decided on the course of action it wishes to take, please let me know how you wish to proceed. Should you chose option b) or c), I would like to reassure you that the examination can be resumed and completed in a timely manner from my point of view as soon as you instruct me to do so.

The comments made in this letter are without prejudice to my conclusions on any other issue.

Yours sincerely

Ann Skippers

Ann Skippers
Director

via email to David Way, Senior Planning Officer, Economic Development and Planning, Wiltshire Council, County Hall, Bythesea Road, Trowbridge, BA14 8JN

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