

# **WARMINSTER NEIGHBOURHOOD PLAN**

Warminster Neighbourhood Plan Examination,  
A Report to Wiltshire Council

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## 1. Introduction

### The Neighbourhood Plan

This Report provides the findings of the examination into the Warminster Neighbourhood Plan (referred to as the Neighbourhood Plan).

Neighbourhood planning provides communities with the power to establish their own policies to shape future development in and around where they live and work.

*“Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”*  
(Paragraph 183, National Planning Policy Framework)

Warminster Town Council is the *qualifying body* responsible for the production of this Neighbourhood Plan. This is in line with the aims and purposes of neighbourhood planning, as set out in the Localism Act (2011), the National Planning Policy Framework (2012) and Planning Practice Guidance (2014). In 2013, a Neighbourhood Development Plan Working Group, comprising a wide range of people from the local community, was established by Warminster Town Council to produce the Neighbourhood Plan.

This Examiner’s Report provides a recommendation as to whether or not the Neighbourhood Plan should go forward to a Referendum. Were it to go to Referendum and achieve more than 50% of votes in favour, then the Plan would be *made* by Wiltshire Council. The Neighbourhood Plan would then form part of the development plan and would be used to determine planning applications and guide planning decisions in the Warminster Neighbourhood Area.

## Role of the Independent Examiner

I was appointed by Wiltshire Council, with the consent of the qualifying body, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I possess appropriate qualifications and experience.

I am a chartered town planner and an experienced Independent Examiner of Neighbourhood Plans. I have extensive land, planning and development experience, gained across the public, private, partnership and community sectors.

As the Independent Examiner, I must make one of the following recommendations:

- a) that the Neighbourhood Plan should proceed to Referendum, on the basis that it meets all legal requirements;
- b) that the Neighbourhood Plan, as modified, should proceed to Referendum;
- c) that the Neighbourhood Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

If recommending that the Neighbourhood Plan should go forward to Referendum, I must then consider whether or not the Referendum Area should extend beyond the Warminster Neighbourhood Area to which the Plan relates.

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

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act (PCPA) 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 PCPA (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.

Subject to the contents of this Report, I am satisfied that all of the above points have been met.

## Neighbourhood Plan Period

A neighbourhood plan must specify the period during which it is to have effect. The title page of the Neighbourhood Plan does not refer to the plan period, although the Foreword, on page 3, states that it *“spans the period up to 2026.”*

The opening section of the Vision chapter, on page 10, clearly states that:

*“This Neighbourhood Plan covers the period 2015-2026.”*

For clarity, I recommend that the front cover of the Neighbourhood Plan also includes reference to the plan period:

- **Front cover, replace “November 2015” with “2015-2026”**

Taking the above into account, I confirm that the Neighbourhood Plan satisfies the relevant requirement in this regard.

## Public Hearing

According to the legislation, *when the Examiner considers it necessary* to ensure adequate examination of an issue, or to ensure that a person has a fair chance to put a case, then a public hearing must be held.

However, the legislation establishes that it is a general rule that neighbourhood plan examinations should be held without a public hearing – by written representations only.

Further to consideration of the written representations submitted, I confirmed to Wiltshire Council that I was satisfied that the Warminster Neighbourhood Plan could be examined without the need for a Public Hearing.

## 2. Basic Conditions and Development Plan Status

### Basic Conditions

It is the role of the Independent Examiner to consider whether a neighbourhood plan meets the “basic conditions.” These were *set out in law*<sup>1</sup> following the Localism Act 2011 and require that:

- 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.

I have examined the Neighbourhood Plan against each of the basic conditions above.

Page 6 of the Neighbourhood Plan, in setting out matters relating to the Localism Act, states that it “*presumes*” that development will be sustainable. This isn’t quite the case and for clarity, I recommend:

- **Page 6, last sentence, change to “*The Act refers directly to the presumption in favour of sustainable development.*”**

This section of the Neighbourhood Plan goes on to refer to the National Planning Policy Framework (the Framework) and the Wiltshire Core Strategy (adopted 2015) (the Core Strategy). Under the title, “*Wiltshire Council – Local Development Framework and Core Strategy,*” the Neighbourhood Plan refers to the Strategic Housing Land Availability Assessment (SHLAA). However, unlike the Core Strategy, the SHLAA does not form part of the Local Development Framework and its inclusion in this section is confusing, undermining the clarity of the Neighbourhood Plan.

I recommend:

- **Page 7, delete paragraph 2.3.2**

In addition, page 7 includes the title “*Local Policy – Warminster’s Town Plan.*” This title is confusing, as the Warminster Town Plan does not provide adopted planning policy for the area.

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<sup>1</sup> Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

For clarity, I recommend:

- **Page 7, 2.4, change title to “Warminster’s Town Plan”**

Having regard to the basic conditions, the above recommendations are important, given that, on page 8, the document goes on to refer to the Neighbourhood Plan being “*consistent with the above planning framework.*” Neither the SHLAA, nor the Warminster Town Plan, form part of the Local Development Framework.

In line with legislation, a Basic Conditions Statement has been submitted alongside the Neighbourhood Plan. This sets out the reasons why, in the view of the qualifying body, the Neighbourhood Plan meets the basic conditions.

## European Convention on Human Rights (ECHR) Obligations

I am satisfied that the Neighbourhood Plan has regard to fundamental rights and freedoms guaranteed under the ECHR and complies with the Human Rights Act 1998. There is no substantive evidence to the contrary.

## European Union (EU) Obligations

There is no legal requirement for a neighbourhood plan to have a sustainability appraisal<sup>2</sup>. However, in some limited circumstances, where a neighbourhood plan is likely to have significant environmental effects, it may require a Strategic Environmental Assessment (SEA).

With the above in mind, draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.

*“Draft neighbourhood plan proposals should be assessed to determine whether the plan is likely to have significant environmental effects.”* (Planning Practice Guidance<sup>3</sup>).

This process is referred to as a “screening” report, opinion or assessment. If the screening assessment identifies likely significant effects, then an environmental report must be prepared.

The Basic Conditions Statement confirms that Wiltshire Council prepared a Strategic Environmental Assessment Screening Assessment to determine whether or not the Neighbourhood Plan is likely to have significant environmental effects. The Screening Assessment (June 2015) was submitted alongside the Neighbourhood Plan.

It concludes that:

*“Wiltshire Council considers that the proposed Warminster Neighbourhood Plan is unlikely to have significant environmental effects and accordingly does not require a Strategic Environmental Assessment.”*

As part of the Screening Assessment, the statutory bodies, the Environment Agency, Historic England and Natural England were all consulted. All three bodies agreed with the screening determination that the Neighbourhood Plan was not likely to have significant environmental effects and that, therefore, a Strategic Environmental Assessment is not required.

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<sup>2</sup> Paragraph 026, Ref: 11-027-20150209, Planning Practice Guidance

<sup>3</sup> Paragraph 027, ibid

In reaching the conclusion that it did, I note that Wiltshire Council stated that there:

*“...are no national and European landscape/biodiversity designations within the plan area but the AONB does lie to the west of the NP area. However, the limited proposals of the neighbourhood plan that accord with the Wiltshire Core Strategy are not considered likely to lead to any significant effects.”*

I also note that a Habitats Regulations Assessment (HRA) was undertaken in April 2015 and subsequently revised in November 2015 and that this concludes that the Neighbourhood Plan:

*“...would have no likely significant effects upon the Natura 2000 network alone or in combination and no appropriate assessment is currently required.”*

As with the Sustainability Appraisal, none of the statutory consultees raised any concerns with regards compatibility or otherwise with European obligations.

With respect to European obligations, I am also mindful that national guidance establishes that the ultimate responsibility for determining whether a draft neighbourhood plan meets EU obligations is placed on the local planning authority,

*“The local planning authority must decide whether the draft neighbourhood plan is compatible with EU regulations.”* (Planning Practice Guidance<sup>4</sup>)

Wiltshire Council has not raised any concerns in this respect.

Taking all of the above into account, I am satisfied that the Neighbourhood Plan is compatible with EU obligations.

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<sup>4</sup> Paragraph 031, Reference: 11-031-20150209, Planning Practice Guidance

### 3. Background Documents and Warminster Neighbourhood Area

#### Background Documents

In undertaking this examination, I have considered various information in addition to the Warminster Neighbourhood Plan. This has included:

- National Planning Policy Framework (the Framework) (2012)
- Planning Practice Guidance (2014)
- Town and Country Planning Act 1990 (as amended)
- The Localism Act (2011)
- The Neighbourhood Planning Regulations (2012)
- Wiltshire Core Strategy (2015) (Core Strategy)
- Basic Conditions Statement
- Consultation Statement
- Sustainability Appraisal
- SEA Screening Opinion
- HRA Screening Opinion

Also:

- Representations received during the publicity period

In addition, I spent an unaccompanied day visiting the Warminster Neighbourhood Area.

## Warminster Neighbourhood Area

A plan showing the boundary of the Warminster Neighbourhood Area is provided on the front cover of the Neighbourhood Plan. However, this is very small and largely illegible. Further, it doesn't show the Neighbourhood Area in the context of its surroundings.

For clarity, I recommend:

- **Provide a full page plan showing a clearly legible boundary of the Neighbourhood Area in the context of its surroundings**

The Neighbourhood Area coincides with that of Warminster Parish.

Further to an application made by Warminster Town Council, Wiltshire Council approved the designation of the Warminster Neighbourhood Area on 5<sup>th</sup> March 2013.

This satisfied a requirement in line with the purposes of preparing a Neighbourhood Development Plan under section 61G (1) of the Town and Country Planning Act 1990 (as amended).

## 4. Public Consultation

### Introduction

As land use plans, the policies of neighbourhood plans form part of the basis for planning and development control decisions. Legislation requires the production of neighbourhood plans to be supported by public consultation.

Successful public consultation enables a neighbourhood plan to reflect the needs, views and priorities of the local community. It can create a sense of public ownership, help achieve consensus and provide the foundations for a successful 'Yes' vote at Referendum.

### Warminster Neighbourhood Plan Consultation

Warminster Town Council submitted a Consultation Statement to Wiltshire Council. In line with legislative requirements, this sets out who was consulted and how, together with the outcome of the consultation and in so doing, the Consultation Statement meets the requirements of the neighbourhood planning *regulations*<sup>5</sup>.

Further to establishing the Working Group, referred to above, Warminster Town Council provided a "*Neighbourhood Plan Stand*" at the town's Christmas Market, resulting in 144 comments being received. In January 2014, a Civic Trust open meeting, attended by 45 people, comprised a discussion on issues of concern for inclusion in the Neighbourhood Plan and in the same month, a neighbourhood planning forum was held with stakeholders, housing associations and other bodies.

Information from all of the above fed into a Vision and Scoping Study, produced in January 2014.

The first draft plan was subsequently produced and underwent consultation between March and May 2015. This consultation period was supported by significant public consultation. Thirteen separate exhibitions were held in five different locations. All exhibitions were manned by at least two members of the Working Group and/or officers and were held at different times of the day and on different days of the week – providing ample opportunity for people to attend.

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<sup>5</sup>Neighbourhood Planning (General) Regulations 2012.

Further to the above, I note that the exhibitions were supported by the distribution of an immense total of 20,000 flyers and that attendance at any one of the exhibitions ranged up to 159 people. The Consultation Statement also points out that, using the variety of members on the Working Group, the exhibitions were able to reach a wide audience, including *“particularly hard to reach groups, such as parents of schoolchildren, religious groups...ethnic groups reached through the Armed Forces and also local business owners.”*

Questionnaires were distributed and several hundred responses received. The Working Group made changes to the draft plan, taking comments into account.

From reading through the evidence presented, it is clear that the plan-making process was very well-publicised. Information was provided and updated on Warminster Town Council’s website. Social media was used to publicise the draft plan and included a link to a *“Survey Monkey”* response form. In addition to the 20,000 leaflets distributed, there were frequent updates on Warminster Community Radio and advertisements placed in the Warminster Journal, Wiltshire Times and Warminster Valley News.

It is clear that plan-makers were pro-active in their efforts to engage with local people, with comments being sought over a sustained period of time.

Taking everything into account, the Consultation Statement presents an audit trail to demonstrate that consultation was wide-ranging, comprehensive and transparent. People and organisations were provided with a fair chance to have their say. The comments received were duly considered and there is plentiful evidence to demonstrate that the Neighbourhood Plan reflects the views of local people.

I am satisfied that the consultation process was comprehensive and robust.

## 5. The Neighbourhood Plan – Introductory Section

**Where modifications are recommended, they are presented as bullet points and highlighted in bold print, with any proposed new wording in italics.**

The policies of the Neighbourhood Plan are considered against the basic conditions in Chapter 6 of this Examiner’s Report. This Chapter considers the Introductory Section of the Neighbourhood Plan.

The Neighbourhood Plan is well presented. Subject to the comments below, the text is clearly set out and the Policies are distinctive from the supporting information. Plans, diagrams and photographs combine to produce an attractive and easy-to-read Neighbourhood Plan.

The Foreword refers to the “*draft*” Neighbourhood Plan. If the Neighbourhood Plan progresses to Referendum and is made, this reference will be out of date. I recommend:

- **Page 3, paragraph 1.5, delete “...draft...”**

Paragraph 2.5.3 of the Neighbourhood Plan, on page 8, refers to information relevant to the submission stage, but which will quickly become out of date. I also note that this paragraph refers to the “*adoption*” of the Neighbourhood Plan. Subject to a successful Referendum, a Neighbourhood Plan is not adopted, but “*made.*” I recommend:

- **Delete Paragraph 2.5.3**

Similarly to the above, the final box on page 8 refers to “*Next Steps to Approve the Plan.*” The information contained within this box is largely out of date and incorrectly refers to independent examination testing “*soundness.*” As set out above, it is the purpose of examination to test the Neighbourhood Plan against the basic conditions. I recommend:

- **Delete the final box (and arrow pointing to it) on page 8**

Chapter 3 of the Neighbourhood Plan comprises the “*Vision, Themes and Objectives.*” It sets out the community’s vision for the Neighbourhood Area and includes the objectives identified through the consultation process considered earlier. The Chapter draws a clear link between the aspirations of the local community and the Policies of the Neighbourhood Plan. No changes recommended.

## 6. The Neighbourhood Plan – Neighbourhood Plan Policies

### A Place to Live

This Chapter begins by setting out the background to the provision of land for housing in the Neighbourhood Area.

It opens by stating that the Core Strategy “*makes provision for 1920 dwellings in Warminster over the period 2006-2026.*” This is not quite the case. For accuracy, I recommend referring to the housing requirement as it is set out in Core Strategy Core Policy 31:

- **Page 16, Para 4.1.1, change to “...makes provision for *about* 1920 dwellings in...”**

The rest of the content of Paragraph 4.1.1 sets out information that to some degree, has already been overtaken by events. Housing land matters are dynamic, with planning permissions being granted each year.

For clarity, I recommend:

- **Para 4.1.1, change from second sentence onwards to “*Some of these dwellings have already been built, or have planning permission to be built. In addition, the Core Strategy identifies a strategic site on the west side of Warminster, the West Urban Extension, for the delivery of 900 dwellings during the plan period. The Table at the end of this page provides a summary of the housing requirement for Warminster in 2014. This is for background information purposes only.*”**

Paragraph 4.1.3 is a little confusing as it refers to the Strategic Housing Land Availability Assessment (SHLAA) as impacting on future growth, which is not quite the case. The SHLAA simply forms part of the evidence base.

I recommend:

- **Delete Para 4.1.3. Change bullet points below it to “*Para 4.1.3. Wiltshire Council has undertaken...*” and replace last sentence with “*The SHLAA informs the Housing Site Development...community.*”**

The Principles set out on Page 17 reflect aspirations in relation to housing. However, they do not comprise Policies. As worded, the Principles set out requirements that do not meet the basic conditions and that, in parts, read as though they were Policies. For clarity, I recommend:

- **Page 17, include a new paragraph underneath the title, “*The box below sets out some of the community’s general aspirations for new housing in Warminster. For clarity, its contents do not comprise Policy requirements.*”**

To address the wording, which goes beyond that of background information (through use of phrases like “*will need to*”) and/or conflicts with the basic conditions, I recommend:

- **Line 3, change to “...in the town, *which the Town Council would like to see expand to match the growth of the community.*”**
- **Line 9, change to “...of traffic. *It may help to maintain this equilibrium if future development was, to some extent, spread around the town.*”**
- **Line 12, change to “...and enjoy. *This requires...*”**
- **Line 13, change to “New developments *are encouraged to follow the...*”**
- **Line 15, change to “Future developments *are encouraged to complement and enhance the existing...*”**
- **Line 17, change to “...has *provided some indicative standards for the design...A.3). The Town Council encourages new homes and mixed use developments to take these standards into account.*” (delete rest of paragraph)**

Paragraph 4.3.1 includes information that is already out of date. For clarity, I recommend:

- **Page 18, Para 4.3.1, delete “*Any resultant changes...December 2015.*”**

The Neighbourhood Plan then becomes confusing. Having identified that settlement boundaries are addressed by the Core Strategy, it refers to matters not directly relevant to the Policy that follows. This detracts from the clarity of the Neighbourhood Plan. Further, the last line of the supporting text in paragraph 4.4.3 reads as though it comprises a Policy, which it does not. I recommend:

- **Delete Paras 4.3.2 and 4.3.3**
- **Para 4.4.3, delete last sentence**

## **POLICY L1 – PROTECTION OF GREEN INFRASTRUCTURE**

The first part of Policy L1 states that the settlement boundary will protect “*key leisure and environment areas from development.*” This is not the case. A settlement boundary shows the limits of the built-up area. Neither national nor local policy seek to prevent any form of development outside settlement boundaries. Policy L1 conflicts with the basic conditions in this regard and no substantive evidence is provided for the approach set out.

Further to the above, I note that the Policy refers to “*key areas*” but that these are not defined. This fails to provide a decision maker with a clear indication of how to react to a development proposal, having regard to Paragraph 154 of the Framework.

The second part of the Policy states that areas with a high risk of flooding “*shall not be developed.*” This does not have regard to national policy, which, in Chapter 10 of the Framework, “*Meeting the challenge of climate change, flooding and coastal change,*” sets out a sequential test and establishes that:

*“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk”* (Paragraph 100).

Rather than apply a sequential test, Policy L1 seeks to adopt a blanket approach preventing any development in areas at high risk of flooding. This could prevent necessary development from coming forward – for example, the development of flood control infrastructure.

There is no doubt that flooding is a major issue and a significant concern for the community in the Neighbourhood Area, as it is for communities throughout England. However, Policy 1.3 does not meet the basic conditions and hence the recommendation below.

I note above that that the Framework seeks to address climate change and flood management and I am also mindful that the Core Strategy includes a specific flood risk policy, which refers to the need to apply the sequential test (Core Policy 67).

Taking the above into account, I recommend:

- **Delete Policy L1**

## **POLICY L2 – CORE STRATEGY ALLOCATION**

Policy L2 concerns the West Urban Extension, allocated in the Core Strategy. The Policy seeks to prevent the West Urban Extension from delivering more than 900 homes.

In allocating the West Urban Extension, the Core Strategy recognises that the site is larger than that required for 900 homes. Appendix A of the Core Strategy notes that *“The final development area is yet to be identified through a comprehensive masterplanning process with the local community.”* It goes on to point out that the additional land provides space to mitigate against landscape and heritage related impacts, if required.

Appendix A of the Core Strategy goes on to state that *“the development quanta will remain set at 900 homes...”* I note that this does not form part of Core Policy 31, which simply refers to the 900 home allocation. For clarity, Core Policy 31 does not state that the West Urban Extension should not exceed 900 homes.

This is an important matter. National policy sets out a requirement to *“boost significantly the supply of housing”* (Paragraph 47, the Framework) and requires housing applications to *“...be considered in the context of the presumption in favour of sustainable development”* (Paragraph 49, the Framework). Consequently, there is national policy support to increasing housing supply, subject to it comprising sustainable development.

Placing an absolute limit on the number of homes to be delivered by the West Urban Extension fails to provide for flexibility and runs the risk of preventing sustainable development from coming forward. It may be that an appropriate masterplanning approach to the strategic site could mean that the provision of, say, more houses than the number identified in the Core Strategy, would still result in a sustainable development. This would have the benefit of contributing towards boosting housing supply through sustainable development. The approach set out in Policy L2 would prevent this and does not meet the basic conditions.

I recommend:

- **Delete Policy L2**
- **Page 19, Para 4.4.3, line 8, change to “...environment *and that the number of dwellings should also...Strategy.*”**

In making the above recommendation, I note that the Core Strategy already establishes the allocation of the West Urban Extension.

## **POLICY L3 – WUE DESIGN**

Good design is recognised by national policy as comprising

*“a key aspect of sustainable development...indivisible from good planning”*  
(Paragraph 56, The Framework)

In addition, national policy requires good design to contribute positively to making places better for people (Chapter 7, The Framework) and Core Strategy Core Policy 57 supports high quality design. In this respect, Policy L3 has regard to national policy and is in general conformity with the Core Strategy.

Building for Life 12 provides guidance for good design. As such, it is a useful tool to help provide for sustainable development. However, it is simply guidance, rather than a compulsory requirement for development to take into account.

Whilst I note that Building for Life 12 provides guidance rather than a national technical standard, it is relevant to point out that a recent Ministerial Statement<sup>6</sup> established that house building standards will be incorporated into new building regulations. It went on to state that the optional new national technical standards should only be required through any new Local Plan policies if they address a clearly evidenced need and that:

*“Neighbourhood plans should not be used to apply the new national technical standards.”*

I note that Policy L3 applies to all housing development, not just the West Urban Extension and I make a recommendation in this regard.

I recommend:

- **Policy L3, change to “...new developments *are encouraged* to reflect the principles outlined...”**
- **Page 20, Para 4.4.5, change to “...buildings alone. *This Neighbourhood Plan encourages new housing to reflect the Building for...neighbourhoods.*”**
- **Change title of Policy L3 to “*DESIGN*”**

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<sup>6</sup> Ref: Ministerial Statement 25<sup>th</sup> March 2016.

## **POLICY L4 – WUE COMMUNITY**

Policy L4 sets out a number of requirements related to the West Urban Extension.

Planning Practice Guidance requires land use planning policies to be precise and concise<sup>7</sup>. Further, the Framework states that:

*“...the sites and scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened”* (Paragraph 173).

Planning Practice Guidance goes on to refer to the need, where relevant, to provide evidence to demonstrate a broad understanding of viability<sup>8</sup>.

The requirements set out in Policy L4 are not precise. No detail is provided with regards what *“a limited number of shops and services to meet immediate needs, including some medical facilities”* actually comprises. Further, *“hall/meeting place”* is undefined and no indication is provided with regards what might comprise *“appropriate green spaces and leisure facilities.”* Consequently, Policy L4 is imprecise and fails to provide a decision maker with a clear indication of how to respond to a development proposal, having regard to paragraph 154 of the Framework.

Further to the above, no substantive evidence is provided to demonstrate that the provision of *“a substantial green buffer zone”* as suggested and a *“centralised sports field”* comprise viable sustainable development requirements. I note that *“substantial”* is a somewhat vague term and it is not clear whether the *“centralised”* sports field should be central to the West Urban Extension alone or having regard to the earlier Principles, in terms of integration, be central to this part of Warminster.

Taking all of the above into account, Policy L4 lacks clarity and does not meet the basic conditions.

I recommend:

- **Delete Policy L4**
- **Delete paragraphs 4.4.6 to 4.4.9 inclusive**

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<sup>7</sup> Ref: Planning Practice Guidance 41-041020140306.

<sup>8</sup> Ref: Planning Practice Guidance 10-005-20140306.

## **POLICY L5 – SEPARATE HOUSING AND EMPLOYMENT**

Policy L5 seeks to prevent employment uses on the West Urban Extension site from having road access through residential areas.

National policy states that:

*“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”*

(Paragraph 32, the Framework)

No evidence is provided to demonstrate that there would be any residual cumulative impacts arising from the approach required by Policy L5.

In the above regard, I am mindful that Wiltshire Council has raised the specific concern that there are *“practical and technical limitations”* relating to access to the West Urban Extension. The Neighbourhood Plan provides no indication of how these might be resolved, were Policy L5 to be made.

Taking the above into account, there is a risk that the Policy could prevent, rather than contribute towards, the achievement of sustainable development from coming forward.

The Policy does not meet the basic conditions and I recommend:

- **Delete Policy L5**
- **Delete Paragraph 4.4.10**

## A Place to Work

In providing the context to the Neighbourhood Plan's employment Policies, Paragraph 5.1.1's reference to Appendix A.6 does not quite reflect the content of that Appendix.

I recommend:

- **Page 24, Para 5.1.1, change to "...location of present and *planned/future* commercial employment areas..."**

The aims set out on page 25 provide useful background, but do not comprise Policies.

For clarity, I recommend:

- **Page 25, include a new paragraph underneath the title, "*The box below sets out some of the community's general aspirations for employment Warminster. For clarity, its contents do not comprise Policy requirements.*"**
- **Line 14, change to "*The separation of employment sites from residential areas, where practicable, would avoid unnecessary conflict of interests.*"**

## POLICY W1 – NEW EMPLOYMENT SITES

I note above that national guidance requires land use planning policies to be precise. Policy W1 fails to have regard to this. For example, it is not clear what sites "*on the periphery of the town*" with "*strong access links to the bypass*" actually are.

The approach set out in Policy W1 could relate to anywhere on the outer limits or edge of Warminster with a link to the bypass. Consequently, the Policy fails to provide clarity and creates the potential for conflict with Policies that seek to protect local character and residential amenity. Furthermore, the approach is not in general conformity with Core Strategy Core Policy 34, which focuses the provision of employment land "*within*" Principal Settlements, Market Towns and Local Service Centres and not on the periphery of them.

Taken together, this conflict with Core Policy 34 and the absence of any clarity with regards where new employment sites might be located lead Policy W1 to fail to meet the basic conditions. I note that the second part of Policy W2 goes beyond the capabilities of the Neighbourhood Plan by placing a requirement on the local planning authority.

I recommend:

- **Delete Policy W1**
- **Delete Para 5.4.1 and change title of 5.4 to “*Employment Policy*”**

## **POLICY W2 – EXISTING EMPLOYMENT SITES**

The first part of Policy W2 is not composed as a land use planning policy, but is a statement. However, it is clear that the Policy aims to retain and enhance existing employment sites. Encouraging this has regard to the Framework, which, in Chapter 1, “*Building a strong, competitive economy,*” sets out a commitment to securing sustainable economic growth. I note, however, that there is no national or local policy requirement for employment sites to be “*enhanced,*” albeit that the improvement of existing employment sites would have regard to the aim of achieving sustainable economic growth.

Whilst the second part of Policy W2 supports the change of use of “*inner town employment sites to residential,*” it goes on to set out a requirement for such changes to be supported by the provision of alternative employment “*locations*” within the Neighbourhood Area. This is an onerous requirement that fails to have regard to the fact that, in many circumstances, permitted development rights allow for the change of use from employment to residential, without the need for planning permission.

Taking the above into account, I recommend:

- **Policy W2, change part 1 to “*Existing employment sites should be retained and their enhancement will be supported. On existing sites, new “start-up” businesses and the expansion of existing businesses will be supported.*”**
- **Delete Policy W2 part 2**
- **Page 27, Para 5.4.3, last sentence, change to “*This Neighbourhood Plan recognises that a change in use of such sites might enable existing businesses to relocate to other appropriate sites within the Neighbourhood Area.*”**

## A Place to Enjoy

For clarity and a consistent approach, I recommend:

- **Page 31, add the following above the box of text, “*The box below sets out some of the community’s general aspirations for life in Warminster. For clarity, its contents do not comprise Policy requirements.*”**

### **POICY E1 – CIL/SECTION 106 MONIES**

National policy<sup>9</sup> establishes that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms
- directly related to the development
- fairly and reasonably related in scale and kind to the development

Policy E1 states that CIL/Section 106 monies will contribute to “*the expansion/modernisation of existing sports, club and community facilities and also the creation of new amenities.*” However, there is no substantive evidence to demonstrate that doing so meets the above tests. The Policy does not meet the basic conditions in this regard.

Rather than lose sight of community aspirations, I recommend:

Retain the supporting text relating to Policy E1

- **Delete Policy E1 and replace with “*Community Action: The Town Council will seek to ensure that CIL/Section 106 monies contribute to the expansion...new amenities.*” (for clarity, this is not a Policy)**

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<sup>9</sup> Ref: Paragraph 204, the Framework; Regulation 122 & 123, Community Infrastructure Levy Regulations 2010.

## **POLICY E2 – EXISTING LEISURE FACILITIES**

Chapter 8 of the Framework, “*Promoting healthy communities,*” recognises the important role of the planning system in creating healthy communities and in Paragraph 74, states that “*Existing open space, sports and recreational buildings and land, including playing fields, should not be built on...*” unless such facilities are clearly surplus to requirements or would be replaced by alternative, equivalent or better provision.

In seeking to protect existing leisure facilities, Policy E2 has regard to national policy. However, as worded, the Policy includes references to “*a small part of the site*” and “*the immediate vicinity.*” Neither of these things are clearly defined and the Policy is, as a result, imprecise. Furthermore, there is no evidence to demonstrate that there is scope to replace leisure facilities in their immediate vicinity, or that there is scope to retain and enhance leisure facilities through the development of “*a small part of the site.*” Consequently, there is nothing to demonstrate that the Policy can be implemented and controlled.

Having regard to national policy, I recommend:

- **Policy E2, change bullet points to “*The loss resulting from the proposed development would be replaced by equivalent or better provision in a suitable location within the Neighbourhood Area; or the development is for alternative sports and recreation provision, the needs for which clearly outweigh the loss.*”**

## **POLICY E3 – NEW LEISURE FACILITIES**

Policy E3 requires all major developments to provide playground areas and green amenity spaces, or, importantly, a contribution to towards these.

National policy is clear in stating that development should “*not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened*” (Paragraph 173). In establishing that the obligation might comprise a contribution, Policy E3 is worded in a way that allows obligations to be proportionate to development and has regard to national policy.

However, the Policy goes on to require contributions towards other things, “*as appropriate*” and “*where appropriate.*” No indication is provided with regards under what circumstances such things might be appropriate. In this regard, the Policy is not precise. I recommend:

Policy E3, delete second and third bullet points

- **Add “*Sports facilities with all weather and floodlight facilities*” and “*allotments*” to the bullet points in the supporting text on page 32**

## **POLICY E4 – YOUTH-RELATED AMENITIES**

As worded, Policy E4 does not comprise a land use planning policy, but is a grammatically incorrect statement. Rather than just provide the word “*Support,*” it is important to set out what the Policy is actually seeking to achieve. Without this, the Policy is not precise and it fails to provide a decision maker with a clear indication of how to react to a development proposal and does not meet the basic conditions. I address this point in the recommendation below.

The Policy’s intention is to support improvements to leisure facilities for young people. This has regard to the Framework, which requires planning policies to plan positively for the provision of community facilities (Paragraph 70) and meets the basic conditions.

I recommend:

- **Policy E4, change opening to “*The following development will be supported:*”**

## **POLICY E5 – WEST URBAN EXTENSION SPORTS FACILITIES**

Policy E5 requires the provision of a “*single enhanced sports amenity*” as part of the West Urban Extension.

In this regard, I am mindful that the West Urban Extension is a long term development, to be phased over many years. Representations from the Council and other organisations have confirmed this to be the case and suggested that it would be more appropriate for the provision of sports facilities to reflect a related phasing strategy, rather than be delivered on a single, enlarged site.

As highlighted earlier in this Report, national policy requires that development is not subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. There is no substantive evidence to demonstrate that the approach set out in Policy E5 is viable and consequently, I am unable to conclude that the Policy meets the basic conditions.

I recommend:

- **Delete Policy E5**

## **POLICY E6 – ATHENAEUM CENTRE**

Paragraph 70 of the Neighbourhood Plan supports positive planning for the provision of community facilities and cultural buildings. Policy E6 is a positive, supportive policy that has regard to national policy.

For clarity, I recommend:

- **Policy E6, change to “*The integration of the...groups will be supported.*”**

## **POLICY E7 – MUSEUM FACILITIES AND POLICY E8 – LIBRARY FACILITIES**

Together, the two Policies above “*recognise the need for*” museum and library facilities. This is not a land use planning policy matter, but a general statement.

The Policies go on to support the provision of museum and library facilities. This relates to the provision of community services and neither Policy sets out land use planning matters.

I recognise that museums and libraries are valued and important community facilities in the Neighbourhood Area, as they are throughout much of England. So as not to lose sight of the community’s aspirations in this regard, I recommend:

- **Delete Policies E7 and E8**
- **Replace with “*Community Action. The Town Council recognises the need for museum and library facilities and will work with other parties to support the provision of enhanced and dedicated museum and library facilities.*” (for clarity, this is not a Policy)**

## **POLICY E9 – HEALTH CARE PROVISION**

Policy E9 states that “*enhanced health care provision shall be provided.*” However, it provides no mechanism for achieving this. Consequently, there is nothing to demonstrate how the Neighbourhood Plan will, or can, deliver enhanced health care provision.

I acknowledge that the community aspires to enhanced health care provision.

I recommend:

- **Delete Policy E9**
- **Replace with “*Community Action. The Town Council will work to encourage the provision of enhanced health care facilities, to meet the needs of a growing population, in the Neighbourhood Area.*” For clarity, this is not a Policy.**

## **POLICY E10 – PRIMARY EDUCATION AND POLICY E11 – SECONDARY EDUCATION**

Policies E10 and E11 relate to matters that are neither the responsibility of the Neighbourhood Plan, nor matters that it can control.

I recommend:

- **Delete Policies E10 and E11**
- **Delete all text (Paras 6.5.5 to 6.5.7) and photograph on page 37**

## **POLICY E12 – TOWN CENTRE ENVIRONMENT**

Policy E12 is not worded as a land use planning policy, but comprises a statement.

As worded, the Policy suggests that the Neighbourhood Plan will “*improve the public realm of car parks*” and “*extend the town centre improvements.*” However, no mechanism for the delivery of these aspirations is provided and consequently, it is difficult to understand how the Policy will be monitored or implemented.

Policy E12 is not precise and does not provide a decision maker with a clear indication of how to react to a development proposal. It does not meet the basic conditions.

I recommend:

- **Delete Policy E12**
- **Replace with “*Community Action. The Town Council will seek to improve the public realm around town centre car parks and encourage the extension of town centre improvements along East Street.*” For clarity, this is not a Policy.**

## **POLICY E13 – SURROUNDING ENVIRONMENT**

Together, national and local policies, including Core Strategy Core Policies 51 (Landscape), 57 (Design) and 58 (Historic Environment), afford protection to local character.

Whilst, to some degree, Policy E13 is in general conformity with the Core Strategy, the wording of the Policy is onerous to the point that it may prevent sustainable development from coming forward.

Planning is often a balancing exercise, providing for possible harm to be outweighed by the benefits brought about by sustainable development. As worded, Policy E13 states that there “*shall not*” be any adverse impacts on the environment arising from development. This may not be possible and fails to allow for a balanced approach.

The Policy goes on to impose imprecise requirements – neither “*sight lines*” nor “*key features*” are defined, so it is unclear what these are. Further, no indication is provided with regards when a green space would “*enhance*” the immediate neighbourhood, or when it would not. Also, it is not clear why, how, or whether every development could include a “*green open space that enhances the immediate neighbourhood.*” Such a requirement would not be relevant or appropriate for many proposed developments.

The phrase “*Conservation Areas are to be protected*” is a sweeping statement and is considerably less detailed and informative than national policy, as set out in Chapter 12 of the Framework, “*Conserving and enhancing the historic environment.*” This part of the Policy does not provide a decision maker with a clear indication of how to react to a development proposal.

The final paragraph of Policy E13 supports any form of development, so long as it “*improves*” the natural environment, green space and biodiversity. This could result in unforeseen consequences, whereby inappropriate development is inadvertently supported.

Taking all of the above into account, I recommend:

- **Policy E13, delete and replace with “*New development should respect local character. The provision of green space that enhances its surroundings will be supported. Improvements to the natural environment, green space and biodiversity will be supported.*”**

## **POLICY E14 – DESIGNATION OF LOCAL GREEN SPACES**

The Framework enables local communities to identify, for special protection, green areas of particular importance to them. Paragraph 76 states that

*“By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.”*

Local Green Space is a restrictive and significant policy designation. The Framework requires the managing of development within Local Green Space to be consistent with policy for Green Belts. Effectively, Local Green Spaces, once designated, provide protection that is comparable to that for Green Belt land. Notably, the Framework is explicit in stating that

*“The Local Green Space designation will not be appropriate for most green areas or open space.” (Para 77)*

Taking the above into account, if designating Local Green Space, plan-makers need to demonstrate that the requirements for its designation are met in full. These requirements are that the green space is in reasonably close proximity to the community it serves; it is demonstrably special to a local community and holds a particular local significance; and it is local in character and is not an extensive tract of land. Furthermore, identifying Local Green Space must be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

The Neighbourhood Plan provides evidence to demonstrate that two out of the three proposed areas of Local Green Space pass the relevant tests set out in the Framework. However, the area shown in Appendix 9 as “*Grovelands*” comprises an area of land covering some 11.9 hectares. I consider that this area of land, which equates to the size of at least thirteen full size football pitches, is extensive.

In the absence of any substantive evidence to demonstrate that the area shown as “*Grovelands*” does not comprise an extensive tract of land, I find that it fails to meet national policy requirements for the designation of Local Green Space.

For clarity, it is appropriate to show the areas of Local Green Space in the Neighbourhood Plan itself, rather than in an Appendix. I address this in the recommendations below.

The Framework is clear in setting out the purpose of the Local Green Space designation. To ensure that Policy E14 is precise and provides a decision maker with a clear indication of how to react to a development proposal, it is appropriate to include reference to this in the Policy itself.

I recommend:

- **Policy E14, change to “The two following sites are designated as Local Green Space, where no development will take place other than in very special circumstances:”**
- **Delete the reference to “Grovelands” in the Policy and in Para 6.6.7**
- **Provide the two relevant Plans from Appendix 8 immediately below Policy E14**

### **POLICY E15 – IMPORTANT OPEN SITES**

Policy E15 identifies a number of sites and states that they “*shall be preserved and enhanced as far as possible.*” The sites do not comprise Local Green Space and no indication is provided with regards the basis on which the sites “*shall be preserved*” nor is any mechanism set out in respect of how they “*shall be enhanced.*”

Further to the above, the phrase “*as far as possible*” is ambiguous. It is imprecise and fails to provide a decision maker with a clear indication of how to react to a development proposal.

Policy E15 does not meet the basic conditions.

I recommend:

- **Delete Policy E15**
- **Para 6.6.6, delete “They fall into two groups.”**
- **Delete Para 6.6.8**

## Town Centre

For clarity and consistency, I recommend:

- **Page 43, above text box, add “*The box below sets out the community’s aspirations for Warminster town centre. For clarity, its contents do not comprise Policy requirements.*”**

### **POLICY TC1 – TOWN CENTRE REGENERATION**

Chapter 2 of the Framework, “*Ensuring the vitality of town centres,*” identifies town centres as the heart of communities and requires planning policies to support their viability and vitality.

Policy TC1 is a supportive policy and whilst it is not clear why the Policy, as worded, only refers to “*economic regeneration,*” it is apparent from the supporting text that there is a strong community intention to support regeneration as a whole, within the town centre.

I recommend:

**Policy TC1, delete “*...economic...*”**

## **POLICY TC2 – CENTRAL CAR PARK ENVIRONMENT**

Policy TC2 is poorly worded. It comprises a series of part-statements, rather than comprising concise and precise land use planning policy.

The Policy suggests that the Neighbourhood Plan will do something, but does not provide any mechanism for it to do so. Further, there is no substantive evidence to demonstrate that the aspirations set out within Policy TC2 are realistic, viable or deliverable, as required by national policy.

I recommend:

- **Delete Policy TC2**
- **Replace with “*Community Action. The Town Council will seek to support measures that: (provide 1-6 of the deleted Policy here).*” For clarity, this is not a Policy**

## **POLICY TC3 – WEEKLY MARKET**

Policy TC3 sets out an aspiration but does not provide appropriate clarity in respect of where the weekly market will be located. Further, it provides no indication of how its aims will be achieved, or whether they can be achieved. It lacks necessary precision and justification.

I acknowledge that the community aspires to move the weekly market.

I recommend:

- **Delete Policy TC3**
- **Replace with “*Community Action. The Town Council will work with other parties to seek to move the weekly market to a more prominent, appropriate location.*” For clarity, this is not a Policy**

#### **POLICY TC4 – HIGH STREET/SOUTH OF MARKET PLACE**

This Policy refers to, and is reliant upon, another document. The Town Plan referred to is not an adopted planning document and the Neighbourhood Plan cannot alter its status through a Policy reference.

I recommend:

- **Delete Policy TC4**
- **Delete Paras 7.6.1 – 7.6.5 inclusive**

#### **POLICY TC5 – WESTERN CAR PARK/HIGH STREET**

This Policy states that “*priority will be given to upgrading*” a pedestrian link. No indication is provided in respect of what this will be given priority over, how the upgrading will take place, or whether it is viable.

The Policy seeks to introduce something beyond the control of the Neighbourhood Plan and without relevant detail to demonstrate viability. I recommend:

- **Delete Policy TC5**

## **POLICY TC6 – EAST STREET**

Policy TC6 is worded as a statement. Like Policy TC5, no indication is provided with regards how the statement will be implemented, or whether it is viable. It does not comprise a precise land use planning policy and does not provide a decision maker with a clear indication of how to react to a development proposal.

I recommend:

- **Delete Policy TC6**
- **Replace TC5 and TC6 with “*Community Action. The Town Council will seek to promote the upgrading of the pedestrian link between the Western Car Park and High Street, and promote works that improve the traffic flow, access and appearance of East Street.*” For clarity, this is not a Policy**

## Getting Around

For clarity and consistency, I recommend:

- **Page 51, above text box, add *“The box below sets out some of the community’s general aspirations for new housing in Warminster. For clarity, its contents do not comprise Policy requirements.”***

### **POLICY GA1 – CENTRAL CAR PARK**

The Framework requires all developments that generate significant amounts of movement to provide a Travel Plan (Paragraph 35).

Whilst, as worded, Policy GA1 is imprecise, as it refers to an undefined *“traffic management plan”* and to undefined *“significant development,”* the gist of the Policy has regard to the Framework.

For clarity, I recommend:

- **Policy GA1, change to *“The regeneration of the Central Car Park area and any other development that generates significant amounts of movement will be required to provide a Travel Plan.”***

### **POLICY GA2 – CYCLE ROUTES**

Policy GA2 comprises a statement. It is imprecise - it does not provide any indication of how the new cycle routes will be provided, whether they can be provided, nor any detail pertaining to viability. As set out, I cannot conclude that the Policy is realistic. Policy GA2 does not meet the basic conditions.

I recommend:

- **Delete Policy GA2**
- **Replace Policy GA2 with *“Community Action. The Town Council will seek to promote the creation of new cycle routes, as identified in Appendix A10.”***  
For clarity, this is not a Policy

### **POLICY GA3 – WEST URBAN EXTENSION INTEGRATION**

As worded, Policy GA3 comprises a statement and is unclear. I am mindful that it promotes the provision of pedestrian and cycle paths and that in so doing, it has regard to the Framework which requires development, where practical, to give priority to pedestrian and cycle movements (Paragraph 35).

I note that no definition of what a “*strong*” path actually is, is provided and that consequently, this part of the Policy is unclear.

I recommend:

- **Policy GA3, change to “*The provision of well-lit dual pedestrian and cycle paths from...Bath Road will be supported.*”**

### **POLICY GA4 – PEDESTRIAN LINKS**

Again, as worded, the Policy comprises a statement and is unclear. However, it appears to support the improvement of pedestrian movement and consequently, has regard to the Framework, which in Paragraph 75, requires planning policies to protect and enhance public rights of way and access.

I note that no indication of what an upgrade to movement comprises is provided and that this part of the Policy is unclear.

I recommend:

- **Policy GA4, change to “*The improvement of pedestrian access within the town centre will be supported.*”**

## POLICY GA5 – SIGNAGE

This Policy is inappropriate for inclusion in the Neighbourhood Plan as it refers to and is reliant upon another document, which itself does not comprise an adopted planning document. I recommend:

- **Delete Policy GA5**

## POLICY GA6 – RIGHTS OF WAY

Like previous Policies, Policy GA6 comprises a statement and is unclear. The gist of the Policy has regard to Paragraph 75 of the Framework, which states:

*“Planning policies should protect and enhance public rights of way and access.”*

The Policy also has regard to Chapter 4 of the Framework, *“Supporting sustainable transport,”* which promotes walking and cycling.

Taking the above into account, I recommend:

- **Policy GA6, change to *“Public rights of way will be protected and their enhancement will be supported. Improvements to pedestrian and cycle access to the countryside will be supported.”***

## **7. Neighbourhood Plan – Other Matters**

The first two paragraphs of Chapter 9.0 of the Neighbourhood Plan are out of date and for clarity, I recommend:

- **Delete Paras 9.1.1 and 9.1.2**

I note that the recommendations made in this Report will, if implemented, have an impact on page numbers and Contents. The Contents page should be updated to reflect this.

## 8. Summary

I have recommended a number of modifications further to consideration of the Warminster Neighbourhood Plan against the basic conditions.

Subject to these modifications, I find that

- 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.

Taking the above into account, I find that the Warminster Neighbourhood Plan meets the basic conditions. I have already noted above that the Plan meets paragraph 8(1) requirements.

## 9. Referendum

I recommend to Wiltshire Council that, subject to the modifications proposed, the **Warminster Neighbourhood Plan should proceed to a Referendum.**

### Referendum Area

Neighbourhood Plan Area - I am required to consider whether the Referendum Area should be extended beyond the Warminster Neighbourhood Area. I consider the Neighbourhood Area to be appropriate and there is no substantive evidence to demonstrate that this is not the case.

I recommend that the Plan should proceed to a Referendum based on the Warminster Neighbourhood Area as approved by Wiltshire Council on 5<sup>th</sup> March 2013.

**Nigel McGurk, June 2016**  
**Erimax – Land, Planning and Communities**

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