

Preshute Neighbourhood Plan 2021-2036

Submission Version

A Report to Wiltshire Council on the Examination of the Preshute Neighbourhood Plan

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12th October 2022

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Executive Summary

My examination has concluded that the Preshute Neighbourhood Plan should proceed to referendum, subject to the Plan being amended in line with my recommended modifications, which are required to ensure the plan meets the basic conditions. The more noteworthy include –

- Reducing the threshold of there being significant harm caused to the AONB before development has to be resisted. Removing reference to the protection of key views and the specific protection of the urban fringe. The key viewpoints map should be removed from the plan.
- Deleting policy PRES2 as it duplicates national policy.
- Deleting the policy covering hedgerows, trees and woodland as it was providing less protection than set out in the Wiltshire Core Strategy.
- Referring to the legislative requirements that a 10% Net Biodiversity Gain will be expected to be introduced in 2023.
- Differentiating how non-designated heritage assets are to be assessed compared to those designated heritage assets. In addition, a plan showing the location of all non-designated heritage assets within the parish should be included within the plan.
- Removing the requirement stipulates in which documents need to be submitted with the planning application as this is a matter covered by the Wiltshire local validation checklist.
- Amending the site allocation policy at Elm tree business area to give greater flexibility to enable the delivery of affordable housing to meet the local housing need over the lifetime of the plan.
- Deleting the infrastructure policy as it duplicates Core Policy 3 of the Core Strategy.
- Deleting the policy which establishes local technical standards in terms of the level of water usage.
- Removing the requirement for changes of use of buildings to have to introduce sustainable drainage systems.
- Removing the requirement that the introduction of new uses should be required to lead to the long-term viability of derelict rural buildings.

The referendum area does not need to be extended beyond the plan area.

Introduction

1. Neighbourhood planning was introduced by the Localism Act 2011, and it allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the adopted Wiltshire Core Strategy, the Site Allocation DPD and the saved policies of the Kennet Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.
2. The neighbourhood plan making process has been undertaken by a Neighbourhood Plan Working Group under the supervision of Preshute Parish Council.
3. This report is the outcome of my examination of the Submission Version of the Preshute Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Wiltshire Council.

The Examiner’s Role

4. I was appointed by Wiltshire Council in July 2022, with the agreement of Preshute Parish Council to conduct this examination.
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 44 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of my neighbourhood planning consultancy, John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of Wiltshire Council and Preshute Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. Under the terms of the neighbourhood planning legislation, I am required to make one of three possible recommendations:
 - That the plan should proceed to referendum on the basis that it meets all the legal requirements.
 - That the plan should proceed to referendum, if modified.
 - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements

7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the designated Preshute Neighbourhood Plan area.
8. In examining the Plan, the Independent Examiner is expected to address the following questions
 - Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
 - Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 - namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
 - Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has it been developed and submitted by a qualifying body?
9. Subject to the omission of the key viewpoints shown on Map 18 which cover land outside the designated area, I am able to confirm that the Plan will only relate to the development and use of land, covering the area designated by Wiltshire Council, for the Preshute Parish Neighbourhood Plan, on 11th November 2020.
10. I can also confirm that it does specify the period over which the plan has effect, namely the period from 2021 up to 2036.
11. I can confirm that the plan does not contain policies dealing with any “excluded development”.
12. There are no other neighbourhood plans covering the area covered by the neighbourhood area designation.
13. I am satisfied that Preshute Parish Council as a parish council can act as a qualifying body under the terms of the legislation.

The Examination Process

14. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case. In this case I am satisfied that a public hearing was not required.
15. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
16. I carried out an unaccompanied visit to Preshute on Saturday 20th August 2022. I approached the parish along the A4 - Bath Road from Marlborough Town Centre. I was able to drive into the proposed allocation site at Elm Tree Business Centre where I saw the existing business and leisure units as well as the enclosed land at the western end of the site. I then drove to the southern edge of the parish at Clatford Bottom, turning around in the car park at West Woods, before re-joining

the A4 through the village of Manton, which lies just outside of the Parish. I then crossed the A4 and proceeded northwards to the public car park on the top end of Downs Lane. I then returned to Marlborough, where I was able to see the land at Barton Dene which was the subject of representations submitted on behalf of Marlborough College. I then explored the northern section of the neighbourhood area taking the road out of the town across Marlborough Common, where a rugby tournament was taking place and I was able to appreciate the stunning views of the Downs from a variety of locations and I turned around at the car park at Hackman Hill before returning to Marlborough.

17. Following my site visits, I prepared a document seeking clarification on a number of matters, which I sent to both the Parish Council and Wiltshire Council, entitled Initial Comments of the Independent Examiner, dated 22nd August 2022. I received a response from Wiltshire Council on 13th September 2022 and from Preshute Parish Council on 19th September 2022. All these documents have been placed on the respective websites.

The Consultation Process

18. Prior to 2020 the intention had been that Preshute Parish should form part of the neighbourhood area designated for the Marlborough Area Neighbourhood Plan which was to be a joint plan covering Marlborough Town Council's area and the parishes of Mildenhall and Savernake as well as the Preshute Parish area. Marlborough Town Council had been designated as the Qualifying Body. Consultations on that plan's proposals was part of the wider joint plan preparation and was not specific to Preshute.
19. In 2020 Preshute Parish Council resolved to withdraw from the preparation of the joint plan and it decided to prepare a neighbourhood plan solely covering the parish.
20. The Working Group therefore had to commence a separate public engagement exercise with the residents of the parish. Bearing in mind the small population of the parish and the fact there is no significant settlement within the parish, there was only a limited audience for a parish-based plan.
21. The initial consultation took the form of a questionnaire leaflet distributed to every household, which ran during February and March 2020. The results were analysed and published in March 2021. 25 individual questionnaire responses were received.
22. The views expressed by the residents informed the preparation of the Pre-Submission version of the neighbourhood plan which was the subject of a six-week consultation, known as the Regulation 14 consultation which ran from 21st February to 8th April 2022. All households received a leaflet and responses were received from 2 local residents as well as 8 organisations including Marlborough College and Wiltshire Council. The Consultation Statement- Part 2 sets out how the plan changed as a result of the Reg 14 comments.

Regulation 16 Consultation

23. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over a 6-week period, between 27th June 2022 and 8th August 2022. This consultation was organised by Wiltshire Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 Consultation.
24. In total, 10 responses were received, from Wiltshire Council, Highways England, Environment Agency, Canal and River Trust, Historic England, Natural England, National Grid, Thames Water, Barton Wilmore on behalf of Marlborough College and from 1 local resident.
25. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

The Basic Conditions

26. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of “soundness”. The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.
27. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -
- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
 - Will the making of the Plan contribute to the achievement of sustainable development?
 - Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
 - Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
 - Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

Compliance with the Development Plan

28. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the adopted Wiltshire Core Strategy, the saved policies of the Kennet District Local Plan and the Wiltshire Housing Site Allocations DPD which was adopted on 25th February 2020.
29. Core Policy 1 sets out a Settlement Strategy for Wiltshire and this is expanded in Core Policy 14 which identifies the large and small villages in the Marlborough Community Area. There are no settlements within the neighbourhood plan area

which are identified in that policy and therefore the whole of the plan area falls within the area that is designated as countryside. That includes the areas which fall outside the settlement boundary of Marlborough.

30. Core Policy 2 states that for Market towns, such as Marlborough, there will be a presumption in favour of sustainable development within the limits of development which can only be amended by neighbourhood plans or a Site Allocation DPD. The Marlborough settlement boundary was reviewed as part of the Wiltshire Housing Sites Allocations Plan.
31. Core Policy 45 is aimed at meeting local housing need and Core Policy 48 deals with Supporting Rural Life and covers the areas outside the defined limits of Large Villages and this only allows new housing if required for agricultural or forestry or other persons employed in business essential to the countryside.
32. Other relevant policies are Core Policy 49: Protection of Rural Services and Community Facilities, Core Policy 50: Biodiversity and Geodiversity, Core Policy 51: Landscape, and Core Policy 52: Green Infrastructure and Core Policy 57: Ensuring High Quality Design and Place Shaping as well as Core Policy 58- Ensuring the Conservation of the Historic Environment.
33. I am satisfied that the plan as a whole is in general conformity with the strategic policies in the Wiltshire Core Strategy.
34. Wiltshire Council has embarked on the preparation of a new local plan which will have an end date of 2036. That is currently only evolving policy which has not been subject to Pre-Submission consultation or examination and this is not the development plan that the neighbourhood plan is required to be in general conformity with, for the purpose of basic conditions. The adoption of that plan will push the current end date of the adopted development plan back 10 years, which will then also be aligned with the neighbourhood plan's end date. Once the new local plan is adopted it will take precedence if there is any conflict with the neighbourhood plan, as it will be the most recently adopted development plan.

Compliance with European and Human Rights Legislation

35. Wiltshire Council issued a Screening Opinion, in a report dated March 2022 that concluded that a full strategic environmental assessment, as required by EU Directive 2001/42/EC, which is enshrined into UK law by the "Environmental Assessment of Plans and Programmes Regulations 2004", would not be required.
36. The Council, as competent authority, in June 2022 screened the plan under the Conservation of Habitat and Species Regulations. This report concluded that the plan will not result in a likely significant effect on any European sites or their qualifying features, either alone or in combination with other plans and projects. It was not therefore necessary for an Appropriate Assessment to be carried out.
37. I am satisfied that the basic conditions regarding compliance with European legislation, including the basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the plan has no conflict with the Human Rights Act.

The Neighbourhood Plan: An Overview

38. Preshute is a somewhat unusual parish in that it is entirely countryside, having no settlements that are recognised in the settlement hierarchy. It has a very small population, with only around 200 residents and the parish is linear in nature, running north – south, either side of the A4 and it abuts the historic market town of Marlborough, which is enclosed within a recently confirmed revised limit of development boundary. The town is part of a separate neighbourhood plan area whose plan is at an advanced stage of preparation, having been successfully passed through its examination and is currently awaiting its referendum, which has been postponed pending the outcome of a judicial review.
39. There is no requirement for the Preshute Neighbourhood Plan to allocate land. The parish is entirely within the North Wessex Area of Outstanding Natural Beauty, which has the highest status of protection, based on its scenic value. There is a presumption against all major development within the AONB, other than in exceptional circumstances, as set out in paragraph 177 of the National Planning Policy Framework (NPPF). The overarching planning background seeks to protect the countryside, especially in terms of the spatial strategy, but also because of the need to protect landscapes of national importance. The plan recognises that because of the constraints, there is little scope for major land-use changes within the parish during the lifetime of the plan.
40. Notwithstanding that, the thrust of the plan, in particular, focuses on identifying and protecting key views and in particular, those views that establish the landscape setting of the town of Marlborough. I am not altogether clear how the community was asked to choose which viewpoints are most valued or what criteria was used for their identification. I believe there is a difference between protecting the character of the landscape, which is to reflect the fact that the town of Marlborough sits in the Kennet valley surrounded by downland and the protection of specific viewpoints, which tend to be destinations which people would visit to enjoy that particular vista. I am reinforced in that view as the emphasis is placed on views from the national trails which will tend to be dynamic, transitory views rather than specific destinations
41. It may have been that the Parish Council's concerns stem from proposals that had, previously emerged during the development of the original version of the Marlborough Area Neighbourhood Plan, which Preshute had been part of, before it took the decision in 2020 to withdraw. Just because a site is identified in a SHLAA does not confer preferred development status. In my opinion, the existing planning policies provides a highly restrictive context which would prevent further urban expansion into what is designated as countryside, there is limited housing need within the neighbourhood area and the significance of the parish's assets not least, its landscape and historical importance.
42. It is important to understand that a neighbourhood plan forms part of the suite of planning policy, which includes the Secretary of State's policy and advice, set out in the National Planning Policy Framework, the Planning Practice Guidance and Written Ministerial Statements. This national tier of policy stands above the

strategic policy set out in the adopted local plan. It is entirely appropriate for a neighbourhood plan to add a local dimension to strategic policy, so long as the policies remain in general conformity with the strategic policies and has regard to Secretary of State policy and advice. Both sets of planning policy already apply to the parish of Preshute and these policies will remain material considerations in the determination of planning applications. I have been presented with no substantial evidence that would suggest that alternative approaches to planning within the parish is justified. What the Secretary of State does not wish to see, are plans that contain policies which merely duplicate existing policies which already cover an area. In this case a number of the policies has been put forward in the neighbourhood plan, which essentially copy the requirements or intentions of policies which are already in place, and in my judgement, a number of policies actually constitute unnecessary duplication of this existing policy.

43. The plan does seek to reinforce the constraints on development around the western side of Marlborough through the focus on the “urban fence” around the town, via the identification of key views especially from National Trails. I will address this issue in more detail in respect of specific policies, but I note that a significant number of the viewpoints, particularly from the Wansdyke Path, are identified in Map 18, where the protection of these views from development, would be from, and across land, which lies outside the Preshute neighbourhood area. In a lot of cases these viewpoints are from areas covered by the Marlborough Area Neighbourhood Plan (MANP).
44. Introducing policies which protects key viewpoints from land outside the neighbourhood area, into the neighbourhood area would breach a fundamental prerequisite that neighbourhood plans cannot impose a planning policy on an adjoining Parish which is not within the designated plan area and Preshute Parish Council is not the Qualifying Body.
45. I now need to make some comments regarding the presentation of the neighbourhood plan documentation. I offer these comments with a view to being helpful and ensuring that the plan is fit for purpose. Secretary of State advice in his Planning Practice Guidance states that “Whilst the content of plans will vary depending on the nature of the area and the matter is to be addressed, all plans need to be as focused, are concise and as accessible as possible.”
46. There is much in the presentation of the plan which I believe could be improved and make it a more focused, coherent document. Much of the text in pages 13 - 19 seeks to argue how the plan is in accordance with the Secretary of State policy and also is in line with the strategic policies in the Core Strategy. This essentially is duplicating the material that should be located within the Basic Conditions Statement. I also believe that the flow of the document could be improved by having the justification for individual policies which are set out in Chapter 7 in closer juxtaposition with the actual policies contained in Chapter 8.
47. In my Initial Comments document, I highlighted issues with the quality and readability of the large number of plans which are included within the central part of the document. Wiltshire Council has suggested that these maps could be

located with an appendix to the plan and I concur with that view, especially as the Parish Council's response, recognises that higher resolution maps could better be viewed online. I believe that the issue goes beyond what the Parish Council refers as "presentational issues".

48. I would go further and question whether the need to include all the maps, as published, is justified as many of the maps are of no relevance to the policies covered by the neighbourhood plan even though the Parish Council argue that they are an integral part of the plan. For example, there is a map that shows the parish does not have a Conservation Area within its boundary. The land-use plan does not differentiate between Grade 3 A and Grade 3B agricultural land and only refers to Grade 3 land, but that does not allow the decisionmaker to know what constitutes best and most versatile agricultural land. The difference in the status of what type of Grade 3 land, which is a very material planning consideration, notwithstanding that the Parish Council has not promoted a policy which requires consideration as to agricultural land classification. A final example is there are number of maps showing the areas at risk of flooding, but the neighbourhood plan does not have any specific flood plain policies.
49. Whilst I am raising these issues in an attempt to persuade the Parish Council to critically review the content of the supporting information, these are not matters to which I need to make a formal recommendation, as I do not believe that the issues affect the basic conditions.
50. It is clear that Marlborough College, as well as a major employer is a major landowner which has aspirations to release further land within the parish for development. I do not agree with the views expressed in Regulation 16 consultation that the plan needs to have a different relationship with the Marlborough Area Neighbourhood Plan. The Preshute Neighbourhood Plan is not required to allocate sites to deliver housing numbers arising from the policies set out in the Core Strategy and the fact that the college's land falls within the AONB will always mean that there is a general presumption against major development. This national designation places the highest significance on the protection and enhancement of the landscape. Furthermore, the Marlborough limit of development, which divides the town from the surrounding countryside has recently been reviewed through the Site Allocation DPD. Preshute Parish Council refers to this as the "urban fence" and that does provide clear demarcation for differentiating between where urban and countryside policies apply.
51. These are essentially strategic matters which the Preshute Neighbourhood Plan cannot necessarily depart from, even if it chose to. Certainly, the neighbourhood plan cannot pre-empt future changes to the settlement boundary, which would only come from a review of strategic policies. Such issues of housing land availability and housing need are matters of a strategic importance and not necessarily matters that the neighbourhood plan needs to address. The neighbourhood plan could have chosen to respond to the matters raised by the College such as the housing need from within the Marlborough Area Neighbourhood Plan area by considering extending the Barton Dene allocation

into Preshute Parish, but equally it is entitled to choose to work with the parameters which satisfy the strategic policies in the adopted development plan and certainly is not required to be in general conformity with an emerging local plan. I am not detecting an appetite from the community within the Preshute Parish to promote development on land to the north of the town.

52. Overall, I am satisfied that the neighbourhood plan, if modified in accordance with my recommendations, will meet the basic condition of delivering sustainable development. The plan has made a significant site allocation for residential/business development and has policies aimed at meeting local housing and employment needs as well as promoting local businesses and seeking to protect heritage and landscape areas of national significance as well as promoting sustainable drainage.
53. My recommendations have concentrated particularly on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend all editorial changes to the text. These changes are likely as a result of my recommendations, in order that the plan will still read as a coherent planning document. There has been a range of very helpful suggestions on improvements to the supporting text put forward by Wiltshire Council in its Regulation 16 consultation, but I am not able to make recommendations which do not relate to meeting the basic conditions test as set out in the legislation. I would urge the Parish Council and Wiltshire planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood plan matches the policy, once amended in line with my recommendations. It can also update the terminology issues raised and update the plan in terms of the progress on the review of the Local Plan as well as the eventual outcome of the referendum of the MANP.

The Neighbourhood Development Plan Policies

Policy PRES 1 Natural and Historic Landscape

54. The Parish Council's justification for promoting this policy is that it believes there are no specific policies in the Wiltshire Core Strategy which cover the North Wessex AONB. It is promoting a bespoke policy for that part of the AONB which covers the parish of Preshute. Wiltshire Council has pointed out that the Core Strategy does include policies which address the weight to be afforded to conserving and enhancing landscape and scenic beauty within these protected areas.
55. The Secretary of State's advice for plan making as set out in paragraph 16 f of the NPPF, is the plans should serve a clear purpose, avoiding unnecessary duplication of policies that already apply to a particular area, which in this case is the AONB, including policies in the Framework, where relevant.
56. The NPPF in paragraph 176 identifies that AONBs have the highest level of protection and it requires that "great weight should be given to conserving and

enhancing landscapes and scenic beauty”. It goes on to say that the “scale and extent of development should be limited”. Paragraph 177 goes further by stating that permission should be refused for major developments inside AONBs other than in exceptional circumstances and where development is in the public interest, subject to 3 criteria.

57. It could be argued that the threshold for considering proposals is actually set higher in the NPPF and the Wiltshire Core Strategy than the proposed neighbourhood plan policy which sets the threshold of acceptability to schemes which have a significant detrimental impact, whilst the Framework refers to the scale (and extent) of development in an AONB should be limited. It could be argued that if a detrimental impact of a development in the AONB may not constitute *significant* harm, whilst the presumption, under the Secretary of State and Wiltshire policy, is that development should not be allowed within the AONB, even though the scale of the level of harm on the AONB is not significant. I will recommend that the reference to *significant* detrimental harm be removed to bring it closer into alignment with national policy.
58. The second part of the policy appears to be placing particular significance on the protection of areas around the urban fringe of Marlborough. The Parish Council justifies its stance as it is seeking to protect the setting of the historic town. The implication of drawing this distinction is that it could be interpreted that there should be a higher level of protection of the AONB around the fringes of the town compared to elsewhere within the AONB. To adopt such an interpretation would be the equivalent of a planning policy offering different levels of protection to the Green Belt based on the site’s location in terms of urban areas. Different areas of the AONB will have different characteristics, but they should all enjoy the same level of protection in terms of their scenic value.
59. AONB land at the fringes of the Marlborough already enjoy the highest level of landscape protection and it could also be argued the agricultural land, which is located outside of the recently reviewed settlement boundary of the town enjoys a high level of protection from inappropriate development as it is countryside.
60. My concern with the approach being taken in the neighbourhood plan, is that this two-tier approach could imply that other areas of the North Wessex AONB, which are not situated close to the edge of Marlborough, enjoys a lower status in terms of landscape protection than the area adjacent to the town. I do not consider that this approach is consistent with the Secretary of State’s expectations and that areas of landscape quality within the AONB should not be treated differently depending on where the site is situated vis-à-vis the settlement boundary. I believe that the policy protection afforded by paragraph 177 of the Framework should apply consistently and equally within the AONB irrespective of a site’s location on the urban fringe.
61. I now wish to address the protect identification of the viewpoints which have been identified in the plan. The submission version of the plan identifies a whole range of key landscape views to be retained, as set out in Map18, some of which are located outside the parish of Preshute. The plan attaches particular importance to

views from national trails, some of which such as the Wansdyke Path are located within the parish but do not provide views of the setting of Marlborough in the landscape from those sections within Preshute. The five viewpoints lie within the area to be covered by the Marlborough Area Neighbourhood Plan.

62. It is a fundamental tenet of plan making that the policies put forward in a development plan can only be applied in respect of development which takes place within the plan area. To be explicit the Preshute Neighbourhood Plan cannot be used to judge a planning application for development, which is not taking place in the parish, irrespective of whether the view is from a national trail.
63. The Parish Council, in its new Map A2, which was submitted in response to my Initial Comments document, has now identified what it describes as some new significant views from public vantage points in the parish, as well as identifying views towards the north, from the White Horse Trail which it considers will protect the setting of the historic town of Marlborough. However, the views shown on the revised maps as comprising significant *illustrative* views from within Preshute Parish. That revised plan identify what are new viewpoints which were not part of the neighbourhood plan submitted at Regulation 15 and has not been the subject of public consultation.
64. The implications of this late submission are, for example, that any landowner would not have had an opportunity to comment on the late inclusion of new viewpoints affecting their land. Furthermore, the text refers to these being illustrative views. That illustrative status does not give a decision maker the necessary certainty as to the actual position that the impact of development from the viewpoint, is to be assessed. It is important that a plan proposal meets the Secretary of State's aspirations of how a neighbourhood plan policy is to be drafted, namely that the policy should be clear and unambiguous and should be drafted with sufficient clarity that a decision-maker can apply consistently and with confidence when determining planning applications. If a viewpoint is only illustrative, an applicant or a decisionmaker would not know from which location the impact of development on that view, is to be assessed. I am also unclear as to how the community has been able to identify these new viewpoints as those to which it attaches particularly importance.
65. I note that the local plan landscape policy Core Policy 51 refers to the consideration and enhancement of important views and visual amenity and that policy could actually meet the Parish Council's aspirations for seeking to protect important views from across the AONB.
66. From my site visit, my perception was that it was the characteristics of the sweeping landscape features of the Downlands and the relationship of the agricultural landscape with the urban edge of Marlborough, which are the features of importance, rather than seeking to protect particular individual views from specific locations. Such viewpoints tend to be a recognisable viewpoint, which the residents would point to as being of particular importance as landmarks. Equally, my appreciation of the landscape of the AONB was due to the sweeping vistas

across the whole of the AONB, rather than specific points on the edge of Marlborough.

67. I therefore conclude that the neighbourhood plans proposals for identifying specific viewpoints is not justified in terms of the ambition of conserving and enhancing the AONB and that reference to the protection of key views vis-à-vis the setting of settlements is not consistent with the Secretary of State's approach for the protection from development of land within the AONB. I will therefore be proposing modifications to that policy to ensure the policy would meet the basic conditions.

Recommendations

In 1. delete "significant"

In 2 second sentence, replace "enhance, restore and better manage" with "conserve and enhance" and delete the rest of the policy after "significant landscape features and elements"

Delete Map 18

Policy PRES 2: North Wessex Down AONB

68. This policy essentially replicates the existing Secretary of State policy as set out in the NPPF. I do not necessarily accept the argument that just because the Wiltshire Core Strategy does not repeat policy set at national level, the Parish Council desire to include the same policy within the neighbourhood plan is required. It is, in my view, unnecessary duplication and does not provide an additional layer of policy for the consideration of planning applications as its provisions already apply. The policy as submitted, offers no local dimension to the Secretary of State's policy and essentially as a policy to require compliance with planning policy which is already set out in the NPPF. I therefore consider that this policy does not meet the basic conditions in terms of having regard to Secretary of State policy and advice as set out in paragraph 16f of the Framework.
69. I will accordingly be recommending that the policy be deleted as effectively it duplicates existing national policy in terms of the control of development in an AONB.

Recommendation

That the policy be deleted.

Policy PRES 3: Trees, Hedgerows and Woodland

70. This policy is somewhat contradictory. The first section imposes requirements that development must conserve and enhance for example hedgerows. I am not altogether clear how a development could enhance a tree which implies the measures go beyond the protection of the tree. However, the second element of the policy, then countenance situations where trees, woodland or hedgerows can be removed, so long as replacing planting is provided.
71. I am unconvinced that the policy adds any additional locally distinctive element to existing policy. Core Strategy Policy 50 covering biodiversity, is a

comprehensive policy which, in my view, provides a greater level of detail, not just in terms of compensatory planting where mitigation is to be maximised, plus it seeks to ensure that there is no loss of biodiversity resources and it makes reference to the need to avoid loss of continuity of wildlife networks. Similarly, Wiltshire Council has pointed out Core Strategy Policy 51 –refers to the conservation of local landscape features, which includes locally distinctive patterns and species, comprising natural features such as trees, hedgerows and field boundaries as well as water courses and water bodies.

72. The policy refers to trees hedgerows and woodlands with *high* landscape, amenity, ecological and historic value. A decision maker or an applicant would not necessarily know whether the community attributed particular features, as being of high value. A locally distinctive policy would be, for example, if the neighbourhood plan actually identified and mapped the local wildlife rich habitats including wildlife corridors and stepping stones. That will be in line with the Secretary of State’s aspiration as set out in paragraph 179 of the NPPF. As such, I do not consider that it meets the basic conditions test.

Recommendation

That the policy be deleted.

Policy PRES 4: Biodiversity

73. This policy sets an expectation that development provides net gains in biodiversity in line with the national policy set in paragraph 179b) of the NPPF which requires plans to identify and provide opportunities for measurable net gains for biodiversity.
74. Since the adoption of the Core Strategy, the Environment Act 2022 has passed into law and that established a requirement for at least a 10% net biodiversity gain, which is now expected to be implemented in the next couple of years. The neighbourhood plan could draw attention to the future need for development to reflect the minimum level of net gain sought by this new policy. The approach has been advocated by Wiltshire Council in its Regulation 16 representation and the minimum of 10% figure has been accepted as a proposed modification to the policy by the Parish Council.

Recommendation

At the end of the policy add “The Environment Act 2021 states that from 2023 all development will be required to provide a minimum 10% net biodiversity gain”

Policy PRES 5: Historic Environment and Heritage Assets

75. The policy as submitted proposes that decision-makers should place the same weight on the preservation and conservation of designated and non-designated heritage assets. That is a different approach to the Secretary of State’s which is set out in chapter 16 the NPPF – Conserving and Enhancing the Historic Environment. That approach to assess proposals impact on the designated heritage assets is set out in paragraphs 199 - 202 of the Framework, whilst paragraph 203 requires that the effect of development on

the significance of a non-designated heritage asset requires a balanced judgement regarding the scale of any harm or loss with the significance of the heritage asset. That is a more nuanced approach.

76. The plan does not identify the parish's non-designated heritage assets. I was advised that the existing non-designated assets list for Preshute parish is held by the Wiltshire Heritage Historic Record. It has been suggested to me that they could provide a map of the assets along with a text description of each. Whilst the plan includes many maps covering matters that polices do not relate to there is no information as to what have been designated as non-designated heritage assets to date. That would be a really helpful resources as could identify what assets are covered by this neighbourhood plan policy.
77. The Parish Council has produced a map of all the designated heritage assets in the plan area and to assist the implementation of the policy, I consider that the Neighbourhood Plan could helpfully include an up-to-date map of the non-designated heritage assets map and the map could be referred to in the actual wording of the policy.

Recommendation

In 1. delete “historical site or any designated or undesignated” and replace with “designated” and add to the end of the first paragraph. “Proposals which affect an undesignated heritage asset as shown on Map X will be considered in terms of the scale of any harm or loss against the significance of the asset.”

Prepare a map shown the location of all undesignated heritage assets in the parish.

Policy PRES 6: Landscape Character and Skylines

78. The first part of the policy seeks to establish which document should be accompanying a planning application. That is beyond the scope of what a neighbourhood plan policy can require as these matters fall under the provisions of the Town and Country Planning Development Management Procedure Order 2015, wherein it is the Local Validation Checklist which can require applications to be accompanied by specified information beyond what is required by the national requirements. In this case, I have been advised by Wiltshire Council that its local validation checklist would ordinarily require the submission of a Landscape and Visual Impact Assessment in the case of planning applications which constitute major development or waste management facilities within or adjacent to an AONB. However, there is an added uncertainty as to whether that requirement could actually be imposed as under the requirements of article 11 (3) (c) of the Order that list should have been reviewed, including being subject to public consultation, during the last two years.
79. However, the aspirations of the Parish Council could be achieved by the rewording of the policy and placing the onus on decision-makers to be satisfied that development must not have an unacceptable impact on the character of the AONB. This is achieved by the requirements set out in the second part of the policy, although the reference to the specific viewpoints should not be

included in the policy for the reasons set out in my comments made in respect of Policy PRES 1.

80. The final part of the policy refers to land which falls outside of the adopted settlement boundaries abutting Preshute. When I queried where that land was, the Parish Council confirmed that there is no land which falls inside any limit of development within the parish. Therefore, the status of all the land within the parish is that of countryside and Core Policy 2 provides the context for the consideration of development proposals, in these areas outside of the limits of development and it states that development will not be permitted, other than in the case of development as set out in paragraph 4.25 of the Core Strategy which refers to for example tourism development, rural exception sites, specialist accommodation and proposals supporting rural life. The proposed policy in the neighbourhood plan establishes a higher threshold, namely that development will only be permitted where exceptional circumstances apply. That will then be introducing the possibility of the neighbourhood plan seeking to prevent development which would otherwise be consistent with the strategic policies of the Core Strategy. Such a policy would not, in my view, be consistent with the basic condition that the plan having regard to the strategic policies in the adopted plan. I will recommend that this part of the policy be removed especially as this policy is aimed at reflecting landscape character and protection of skylines. The Parish Council's proposed amendments to the policy will not be an acceptable policy as it is seeking to close off options to be considered as part of the any future review of the local plan. Any new Local plan would override an older neighbourhood plan if there is a conflict between the two plans.

Recommendations

Delete paragraph 1

In the second bullet point of paragraph 2, delete all text after "across the AONB" including paragraph 3 of the policy.

Policy PRES7: Development Site, Elm Tree Business Area

81. This policy allocates the site known as Elm Tree Business area *for development* but it is not explicit in the first section of the policy as to what form of development is required. My concern is that a statement of policy which supports unspecified development in a countryside location could be construed as encouraging forms of development that would not normally be acceptable.
82. It would be clearer if the policy were to be more explicit as to what form of development will be acceptable, namely a combination of residential and / or commercial uses falling within Use Classes E. This is a large brownfield site along the A4 and it is perfectly appropriate for the neighbourhood plan to seek to allocate the site for development. It is one of the key tenets of neighbourhood planning, that it allows communities to be allocate land within their area.

83. Whilst the Preshute Neighbourhood Plan is not required to meet any specific housing numbers, I welcome the fact that the neighbourhood plan is seeking to provide some local affordable housing. I am equally conscious that the plan has a long timeframe, until 2036 and three units is a small figure. Whilst the current housing need could be for three affordable units, nevertheless there could emerge additional housing need, perhaps later in the plan timeframe. The plan refers to a maximum of three affordable housing units, but that figure is not substantiated in terms of the satisfying existing needs and certainly not for the period covering more than 12 years. Similarly, the plan supports the construction of three market houses intended to provide cross subsidy towards the delivery of affordable housing. However, the plan is not explicit as to what level of cross subsidy would be acceptable
84. The policy as submitted, could allow for the construction of 3 no six bed executive houses, to help deliver the currently anticipating three affordable units but an alternative proposal for 5 no three bed family houses would not be acceptable under the Parish Council's wording. I believe that a degree of flexibility is required, which could allow future housing needs to be responded to over the timeframe of the plan. Such a flexible policy could for example allow for a phased approach may be required which would allow a later phase of development to be approved if it is demonstrated by evidence of future housing need. By introducing some flexibility, the policy would be consistent with national policy which seeks to make efficient use of brownfield sites, particularly as in an AONB where any housing should be aimed at meeting local housing need.
85. The reference in the policy requiring the submission of specific heritage information, again goes beyond the scope of a neighbourhood plan policy and is a matter for consideration through the local validation list, but the objective of the policy can be achieved by a requirement that any harm from the development to heritage assets should be minimised.

Recommendations

Delete the first paragraph

In the second paragraph, replace "of appropriate" with "falling within".

In the third paragraph omit "of no more than three" and after "houses" insert "to meet the parish's identified housing need".

Replace the second sentence of the third paragraph, with "if evidence is presented that demonstrate that the delivery of the affordable homes will not be viable, without market houses, a limited number of market houses will be permitted sufficient to deliver the number of affordable homes to meet that local housing need".

In the fourth paragraph, replace the text with "A mixed use development comprising Use Class E unit and local needs affordable housing and any market houses necessary to deliver the affordable homes, will be supported"

Delete paragraphs 5 and 6 and in the final paragraph, delete "residential development will need to include up to three" and also delete "and" after "affordable homes"

Policy PRES 9: Infrastructure Required for Development

86. The Parish Council has explained that the policy was inserted at the request of Thames Water. In fact, the objectives of the policy, including the issue of the phasing of development in line with the delivery of required infrastructure, is already comprehensively covered by Core Policy 3. I am not satisfied that there is evidence which justifies a different approach for the linking of infrastructure and development in this parish compared to the rest of Wiltshire. Therefore, the inclusion of this policy, is in my opinion unnecessary duplication of an existing adopted strategic policy which already covers the parish and accordingly this policy does not meet the basic conditions.

Recommendation

That the policy be deleted.

Policy PRES 9: Water Efficiency

87. The Secretary of State in a Written Ministerial Statement dated 25th March 2015 stating that neighbourhood plans should not set any additional local technical standards relating to the construction, internal layout or performance of new dwellings. I consider that the policy as submitted which seeks to set in maximum water usage does not accord with this Secretary of State policy and accordingly, I will be recommending that the policy be removed.

Recommendation

That the policy be deleted.

Policy PRES 10: Sustainable Drainage Systems

88. This policy includes a requirement to incorporate sustainable drainage systems in the circumstances where the application proposes the change of use of the building. That in my view is an unnecessary requirement as the change of use is unlikely to lead to an actual change in the amount of surface water run off produced as a result of the development. I will therefore be recommending that the policy be amended accordingly.

Recommendation

Remove “and change of use of buildings”.

Policy PRES11: Reuse of Derelict Rural Buildings

89. My only concern with the criteria proposed which will allow the reuse of the derelict buildings is the criteria requiring the use to lead to long-term viability. The purpose of the planning system is not to approve or evaluate the economic viability of a use rather it is a regulatory process that looks at the acceptability of the new use in planning terms. As a requirement it would in many cases be negated having regard to the flexibility in the changes of use of buildings allowed through the permitted development regime.

Recommendation

Delete criteria 6

Policy PRES 12: Economic Viability

90. I have no comments to make on this policy which will support local businesses setting up or expanding within the parish.

The Referendum Area

91. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I did consider whether the referendum area should extend into the parts of Marlborough which abut the parish but I have decided that as the neighbourhood plan is not changing the status of the land and the settlement boundary has been established elsewhere, I concluded that the area of the Preshute Neighbourhood Plan as designated by Wiltshire Council on 11th November 2020 is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

Summary

92. I congratulate Preshute Parish Council on reaching this important stage in the preparation of the neighbourhood plan. The plan has been produced in a short period of time since the decision was taken to withdraw from the Marlborough Area Neighbourhood Plan.

93. I envisage that the Parish Council will be disappointed that a number of policies are recommended, either for deletion or requiring significant modification, but these changes have been required to allow me to conclude that the plan will meet the basic conditions. A number of the points have been made by Wiltshire Council but I believe that the aspirations of the Parish Council will still be met, in terms of recognising the special characteristics of the parish and in particular its landscape quality.

94. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.

95. I am therefore delighted to recommend to Wiltshire Council that the Preshute Neighbourhood Plan, as modified by my recommendations, should proceed, in due course, to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI
John Slater Planning Ltd
12th October 2022