

WESTBURY NEIGHBOURHOOD PLAN 2022 - 2036

The Report of the Independent Examiner to Wiltshire Council on the Westbury Neighbourhood Plan

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Independent Examiner
30th November 2023**

Summary

I was appointed by Wiltshire Council, in agreement with Westbury Town Council, in August 2023 to undertake the Independent Examination of the Westbury Neighbourhood Plan.

The Examination has been undertaken by written representations. I visited the Neighbourhood Area on 15th September 2023 after resolving my initial enquiries of the Qualifying Body.

The Neighbourhood Plan proposes a local range of policies and seeks to bring forward positive and sustainable development in the Westbury Neighbourhood Area. There is an evident focus on safeguarding the very distinctive, local character of the area whilst accommodating future change and growth.

The Plan has been underpinned by extensive community support and engagement. The social, environmental and economic aspects of the issues identified have been brought together into a coherent plan which adds appropriate local detail to sit alongside the Wiltshire Core Strategy (adopted January 2015).

Subject to a series of recommended modifications set out in this Report, some of more significance than others, I have concluded that the Westbury Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.

I recommend that the referendum should be held within the Neighbourhood Area.

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Introduction

This Report sets out the findings of the Independent Examination of the Westbury Neighbourhood Plan 2022 - 2036. The Plan was submitted to Wiltshire Council by Westbury Town Council in its capacity as the 'Qualifying Body' responsible for preparing the Neighbourhood Plan.

Neighbourhood Plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently incorporated within the National Planning Policy Framework (NPPF) in 2012 and this continues to be the principal element of national planning policy. A new NPPF was published in July 2021 and it is against the content of this NPPF that the Plan is examined. NB Although a new NPPF was published in September 2023 that does not apply to Plans already submitted for Examination.

This report assesses whether the Westbury Neighbourhood Plan is legally compliant and meets the 'basic conditions' that such plans are required to meet. It also considers the content of the Plan and, where necessary, recommends modifications to its policies and supporting text. This report also provides a recommendation as to whether the Westbury Neighbourhood Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome, the Westbury Neighbourhood Plan would then be used in the process of determining planning applications within the Plan boundary as an integral part of the wider Development Plan.

The Role of the Independent Examiner

The Examiner's role is to ensure that any submitted Neighbourhood Plan meets the legislative and procedural requirements. I was appointed by Wiltshire Council, in agreement with Westbury Town Council, to conduct the Examination of the Westbury Neighbourhood Plan and to report my findings. I am independent of both Wiltshire Council and the Town Council. I do not have any interest in any land that may be affected by the Plan.

I possess the appropriate qualifications and experience to undertake this role. I have over 40 years' experience in various local authorities and third sector Body as well as with the professional body for planners in the United Kingdom. I am a Chartered Town Planner and a panel member for the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I am a Member of the Royal Town Planning Institute.

In my role as Independent Examiner I am required to recommend one of the following outcomes of the Examination:

- the Westbury Neighbourhood Plan is submitted to a referendum; or
- the Westbury Neighbourhood Plan should proceed to referendum as modified (based on my recommendations); or
- the Westbury Neighbourhood Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. 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 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 2004;

- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 Act (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 Qualifying Body.

These are helpfully covered in the submitted Basic Conditions Statement and, subject to the contents of this Report, I can confirm that I am satisfied that each of the above points has been properly addressed and met.

In undertaking this Examination I have considered the following documents:

- Westbury Neighbourhood Plan 2022 - 2036 as submitted
- Westbury Neighbourhood Plan Basic Conditions Statement (April 2023)
- Westbury Neighbourhood Plan Consultation Statement (April 2023)
- Strategic Environmental Assessment Screening determination for the Draft Westbury Neighbourhood Plan (November 2021)
- Strategic Environmental Assessment (SEA) for the Westbury Neighbourhood Plan (April 2023)
- Wiltshire Council's Habitats Regulations Assessment (HRA) Screening (December 2021)
- Westbury Draft Neighbourhood Plan Habitats Regulations Assessment (November 2022)
- Report to Inform Habitats Regulations Assessment Westbury Neighbourhood Plan (March 2023)
- Content at: www.wiltshire.gov.uk/planning-neighbourhood-latest-news#W%20-%20Z
- Content at: www.Westburytowncouncil.gov.uk/neighbourhood-plan-page/
- Representations made to the Regulation 16 public consultation on the Westbury Neighbourhood Plan
- The Wiltshire Core Strategy (WCS) adopted in January 2015
- Wiltshire Housing Site Allocations Plan (WHSAP), adopted 25 February 2020.
- The Wiltshire Local Plan Review (including Planning for Westbury 2021)
- National Planning Policy Framework (NPPF) (2021)
- Neighbourhood Planning Regulations (2012)
- Planning Practice Guidance (PPG) (March 2014 and subsequent updates)

I carried out an unaccompanied visit to the Neighbourhood Area on 15th September 2023. I looked at all the various sites and locations identified in the Plan document in their rural setting. This visit gave rise to some further queries that I raised with the Qualifying Body.

The legislation establishes that, as a general rule, Neighbourhood Plan examinations should be held without a public hearing, by written representations only. Having considered all the information before me, including the representations made to the submitted plan which I felt made their points with clarity, I was satisfied that the Westbury Neighbourhood Plan could be examined without the need for a public hearing and I advised Wiltshire Council accordingly. The Qualifying Body and the Local Planning Authority have helpfully responded to my enquiries so that I may have a thorough understanding of the facts and thinking behind the Plan, and the correspondence is being shown on Wiltshire Council's Neighbourhood Planning website for the Westbury Neighbourhood Plan.

Westbury Neighbourhood Area

A map showing the boundary of the Westbury Neighbourhood Area has been provided within the Neighbourhood Plan. Further to an application made by Westbury Town Council, Wiltshire Council approved the designation of the Neighbourhood Area on 10th April 2017.

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

Consultation

In accordance with the Neighbourhood Planning (General) Regulations 2012, the Qualifying Body has prepared a Consultation Statement to accompany the Plan.

The Planning Practice Guidance says:

“A qualifying body should be inclusive and open in the preparation of its Neighbourhood Plan [or Order] and ensure that the wider community:

- is kept fully informed of what is being proposed
- is able to make their views known throughout the process
- has opportunities to be actively involved in shaping the emerging Neighbourhood Plan [or Order]
- is made aware of how their views have informed the draft Neighbourhood Plan [or Order].” (Reference ID: 41-047-20140306)

The submitted Consultation Statement notes that (para 1.2) “In preparing the Plan the Town Council has tried to go beyond the minimum requirements for community consultation required by law, including an extended 12 week consultation period”. It is evident that significant reliance was placed on themed working groups after a call to join in the process during August 2018. Through a range of approaches, including surveys and community events, the theme groups gathered evidence for their particular topic area. An interesting innovation, responding to the pandemic restrictions, was the use of ‘whiteboard’ technology to collect and capture information.

As part of the community engagement approach Westbury Town Council’s website had a dedicated section for the Neighbourhood Plan following a revamp in the spring of 2019. This was updated at least monthly, and agendas and minutes uploaded as and when they happened. In parallel, flyers and leaflets were regularly distributed around the town, in shops, library, and public spaces. News was also disseminated via social media outlets. Additionally, regular bulletins were published in the White Horse News, a free fortnightly newspaper and in the Westbury Town Council Newsletter which is published quarterly. Monthly meetings of the Plan Steering Group were announced on notice boards, in doorways, and on social media.

The Call for Sites in January 2020 was given a great deal of publicity in the local media. Contact was also made with local businesses asking them to fill in a short questionnaire to identify the services that they provide, how further housing might affect their business and what local changes might assist their business.

By August 2020 enough work had been completed to produce an Issues Report to bring together all of the information gathered in the early stages of Plan preparation over 2018/19. The Consultation Statement then records that an extensive Regulation 14 consultation took place for 12 weeks from 12th September to 5th December 2022. Hard copies of the draft plan were made available in three locations in the town. A request for comments was sent to all on the list of statutory consultees agreed with the Local Authority. A mini-guide booklet was circulated to every household in Westbury (10,000 copies) and given away at events. The Consultation Statement summarises the responses received, and how they were to be addressed in order to prepare a submission version of the Neighbourhood Plan.

A representation comments: “as far as we are aware, no public consultation has taken place to seek local residents’ preferences on where development should be located in Westbury and how this should be delivered. A public consultation should have been carried out to seek

views on housing strategy and on all the available sites (rather than just two sites) - including the Hill's site at Brook Farm - to establish community preference. Indeed, Appendix 3D of the Consultation Statement demonstrates that the majority of those that responded on the two proposed allocations at the Regulation 14 stage were opposed to the developments, with only 19% supporting 'Land off Bitham Park' and 11% supporting 'Land between Millbrook and Coach Road'." As the Plan no longer allocates housing sites - see later – I don't propose to consider this issue in depth in this Report. Suffice to say that the Qualifying Body has explained their approach, including the use of external consultants, and it is my considered view that the use of public engagement and technical assessment has been balanced appropriately.

Accordingly, overall, I am satisfied that the consultation process accords with the requirements of the Regulations and the Practice Guidance and that, having regard to national policy and guidance, the Basic Conditions have been met. In reaching my own conclusions about the specifics of the content of the Plan I will later note points of agreement or disagreement with Regulation 16 representations, just as the Qualifying Body have already done for earlier consultations. That does not imply or suggest that the consultation has been inadequate, merely that a test against the Basic Conditions is being applied.

Representations Received

Consultation on the submitted Plan, in accordance with Neighbourhood Planning Regulation 16, was undertaken by Wiltshire Council from Monday 5th June to Monday 17th July 2023. I have been passed the representations – 13 in total – which were generated by the consultation and which are included along with the submitted Plan on Wiltshire Council's Neighbourhood Planning website. I have not mentioned every representation individually within this Report but this is not because they have not been thoroughly read and considered in relation to my Examiner role, rather their detail may not be relevant to ensuring that the Basic Conditions are met.

The Neighbourhood Plan

Westbury Town Council is to be congratulated on their extensive efforts to produce a Neighbourhood Plan for their area that will guide development activity over the period to 2036. I can see that a sustained effort has been put into developing a Plan around a vision that by 2036 Westbury:

“continues to be a ‘great small town’; a town that is protective of its history and heritage but vibrant, welcoming and diverse.

A town that continues to be a thriving, yet friendly and community minded town.

A town that offers residents old and new, places to live and work that are safe, clean, healthy, environmentally attractive and sustainable, and represents the best example of a traditional market town.

A town with something for everyone from local shopping and eating places to great outdoor spaces and places to walk, play and exercise.

We will look to proactively address the challenge of climate change and its implications for our community and our natural environment. Another key challenge is to mitigate the effects of through traffic and the pollution, noise and disruption this brings. We want Westbury to be easy to get around, whether by walking, wheeling or by public transport.

Finally, we need to protect and enhance the distinctive landscape setting and built assets, along with the community facilities the town already has to ‘keep it Westbury’.”

The Plan document is well presented with a combination of text, maps and policies that are, subject to the specific points that I make below, well laid out and helpful for the reader. The Plan has been kept to a reasonably manageable length by not overextending the potential subject matter and the coverage of that.

It is an expectation of Neighbourhood Plans that they should address the issues that are identified through community consultation, set within the context of higher-level planning policies. There is no prescribed content and no requirement that the robustness of proposals should be tested to the extent prescribed for Local Plans. Where there has been a failure by the Qualifying Body to address an issue in the round, leading to an inadequate statement of policy, it is part of my role wherever possible to see that the community's intent is sustained in an appropriately modified wording for the policy. It is evident that the community has made positive use of "direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area" (Planning Practice Guidance Reference ID: 41-001-20140306).

Individually, I can see that the Policies address legitimate matters for a Neighbourhood Plan as identified with the community. I will later look at the Policies in turn so as to ensure that the Basic Conditions are met, which include an obligation to be in general conformity with Core Strategy strategic policies. Having considered all the evidence and representations submitted as part of the Examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It works from a positive vision for the future of the Neighbourhood Area and promotes policies that are, subject to amendment to variable degrees, proportionate and sustainable. The Plan sets out the community's priorities whilst seeking to identify and safeguard Westbury's distinctive features and character. The plan-making had to find ways to reconcile the external challenges that are perceived as likely to affect the area with the positive vision agreed with the community. All such difficult tasks were approached with transparency, with input as required and support from the Wiltshire Council.

However, in the writing up of the work into the Plan document, it is sometimes the case that the phraseology is imprecise, not helpful, or it falls short in justifying aspects of the selected policy. This is not uncommon in a community-prepared planning document and something that can readily be addressed in most instances. Accordingly, I have been obliged to recommend modifications so as to ensure both clarity and meeting of the 'Basic Conditions'. In particular, Plan policies as submitted may not meet the obligation to "contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals" (NPPF para 16). I bring this particular reference to the fore because it will be evident as I examine the policies individually and consider whether they meet or can meet the 'Basic Conditions'.

Basic Conditions

The Independent Examiner is required to consider whether a Neighbourhood Plan meets the "Basic Conditions", as set out in law following the Localism Act 2011; in December 2018 a fifth Basic Condition was added relating to the Conservation of Habitats and Species Regulations 2017. In order to meet the Basic Conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the Plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations;
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(d).

The submitted Basic Conditions Statement has very helpfully set out to address the issues in relation to these requirements in the same order as above and has tabulated the relationship between the policy content of the Plan and its higher tier equivalents. I note that the local strategic policies are set out in the Wiltshire Core Strategy adopted in 2015. From the

accompanying Strategic Environmental Assessment and Habitats Regulations Assessment, I will later address whether the making of the Plan will breach the Basic Condition relating to the Habitats and Species Regulations 2017.

I have examined and will below consider the Neighbourhood Plan against all of the Basic Conditions above, utilising the supporting material provided in the Basic Conditions Statement and other available evidence as appropriate.

The Plan in Detail

I will address the aspects of the Area Neighbourhood Plan content that are relevant to the Examination in the same sequence as the Plan. Recommendations are identified with a bold heading and italics, and I have brought them together as a list at the end of the Report.

Front cover

A Neighbourhood Plan must specify the period during which it is to have effect. I note that there is a prominent reference to the Plan period 2022 – 2036 on the front cover. However, the Plan was not submitted to Wiltshire Council until 2023; as there is no dataset linked to 2022 on which the Plan relies, 2023 is more appropriate. The references to “Submission Plan” can now be removed.

HOW TO READ THIS NEIGHBOURHOOD PLAN

This is a helpful section that will assist readers of the Plan. The colour-coding for Policy sections is helpful to the readability of the Plan.

1 INTRODUCTION

Figure 1

The Neighbourhood Plan is required to include a map of the designated “Neighbourhood Area”. I note that Figure 1 provides the required detail, although the title – like the Key - should say ‘Neighbourhood Area’ – as this was specifically what was designated by Wiltshire Council in 2017 - rather than “Neighbourhood Plan Area”.

Paragraph 1.4

The option of using Neighbourhood Plans was a product of national legislation and policy rather than “working alongside”.

External References

Whilst I note that there is a list of full document references to the rear of the Plan, it is common practice to have brief footnotes per page to show what evidence is being relied on. This would allow repeat references (e.g. to the NPPF) to be grouped in the “External References” section rather than duplicated multiple times.

THIS IS A PLAN BY AND FOR THE COMMUNITY OF WESTBURY

No comments.

HOW WILL THE WESTBURY NEIGHBOURHOOD PLAN MAKE A DIFFERENCE?

The local authority has commented: “This section should make it clear that, with a ‘made’ Neighbourhood Plan, 25% of CIL receipts accrued following approval of new planning applications within the designated area would be passed to the Town Council to support local infrastructure, such as environmental improvements.”

Paragraph 1.29

The distinction between Annexes and Appendices seems inconsistent. It seems to me that the related Policies are reliant for essential detail from:

E. Locally Valued Non-Designated Heritage Assets Report

F. Local Green Spaces and Community Open Spaces Report

Recommendation 1:

1.1 *On the front cover, and in any other locations, amend the Plan dates to '2023 – 2036' and remove references to "Submission Plan".*

1.2 *Amend the title for Figure 1 to 'Neighbourhood Area' rather than 'Neighbourhood Plan Area'.*

1.3 *Amend paragraph 1.4 replace "work alongside existing legislation and policy by providing" with 'sit within the Development Plan for Wiltshire and provide'.*

1.4 *Throughout the Plan, wherever a source reference is shown, provide a same-page footnote with brief details of the evidence being relied upon, allowing single document references to be used in the "External References" Section to the rear of the Plan.*

1.5 *On page 11:*

1.5.1 *Add an additional paragraph: 'As noted above, with a 'made' Neighbourhood Plan, 25% of Community Infrastructure Levy (CIL) receipts accrued following approval of new planning applications within the designated area would be passed to the Town Council to support local infrastructure, such as environmental improvements.'*

1.5.2 *In paragraph 1.29, because the related Policies are reliant for essential detail from:*

E. Locally Valued Non-Designated Heritage Assets Report

F. Local Green Spaces and Community Open Spaces Report

these documents should be moved from Appendices to Annexes to become Annexes 4 & 5 [see below for the recommendation on the existing Annex 4]. The Appendices should be renumbered accordingly.

1.5.3 *Move the marker on the Neighbourhood Plan timeline from "Submit ..." to "Referendum".*

2. SETTING THE SCENE POLICY CONTEXT

No comment.

HOUSING NEED

The Qualifying Body had agreed that parts of this section could be more clearly expressed, particularly in the light of updated information. However, during the course of the Examination the Qualifying Body's ambition, to contribute to meeting local housing need through locally identified sites, was thwarted by external factors. The Qualifying Body acknowledged that one site is no longer currently available for housing, and the other has survey work pending which is essential to the assessment of its suitability and deliverability. A significant number of necessary amendments to the submitted Plan arise from these changes of circumstance.

The Qualifying Body has indicated that it would be their intention to undertake an early review of the Neighbourhood Plan in the light of further progress with the Local Plan. The national Planning Policy Guidance is clear that "Neighbourhood plans are not obliged to contain policies addressing all types of development" (Paragraph: 040 Reference ID: 41-040-20160211); also "Housing requirement figures for neighbourhood plan areas are not binding as neighbourhood planning groups are not required to plan for housing" (Paragraph: 104 Reference ID: 41-104-20190509). There is therefore no requirement for the current

Neighbourhood Plan to address housing supply. However, to provide context for the Plan's approach to sustainable development, brief details of the current position on new housing for Westbury would be appropriate. So that it is both authoritative and current I propose that the statement presented to me by Wiltshire Council is used as a basis for revised but very abbreviated content.

WHAT DOES SUSTAINABLE DEVELOPMENT MEAN IN WESTBURY?

Paragraph 2.24

On the Plan copy I have accessed "clicking the picture of the SDGs" does not open a related webpage; the Qualifying Body has committed to correcting this.

3. VISION AND OBJECTIVES

Objective 10

It is difficult to see how "Development should contribute towards the improvement of air quality" other than within the Air Quality Management Area in Westbury town centre. The Qualifying Body agreed that this could be reworded along the lines of "development should not worsen air quality in the Town Centre".

Figure 7

The following queries arise:

- i) Use of the same shade of green implies a greater connection between Local Green Space and Special Landscape Area than is the case.
- ii) It is unclear why the Westbury Leigh Area is to be "preserved" as distinct from other areas which are to be "protected".
- iii) A representation notes: "The 'development boundary' as shown on Figure 7 of the draft NP appears to be the 'settlement boundary' as defined on the Westbury settlement boundary map for the Wiltshire Housing Site Allocations Plan (2020)." Confusion will therefore arise from the use of differing titles.

PLANNING POLICIES

The colour-coding of Policy sections is helpful to the readability of the Plan. However, this listing will need to be reviewed in the light of the Recommendations below.

Recommendation 2:

2.1 Under the heading "Housing Need":

2.1.1 In paragraph 2.11:

2.1.1.1 Replace the bullet point headed "Wiltshire Council" as follows:

'Wiltshire Council – the Council is currently preparing a Local Plan that will identify strategic sites to meet housing requirements to 2038; the Plan will also include an indicative requirement to be met through our Neighbourhood Plan. The Pre-Submission Draft Local Plan 2020-2038 identifies a total housing requirement over the plan period for Westbury of approximately 1,400 homes, of which 570 remain to be found. To meet the requirement there are two strategic housing allocations: Land West of Mane Way for 220 houses and Land at Bratton Road for 260 houses (figure 4.42 Westbury Policies Map, on page 146 of the Pre-Submission Draft ^[footnote required]). The Pre-Submission Draft Policy 60, Westbury Market Town, identifies a neighbourhood area housing requirement for Westbury of 90 houses over the same period. The adopted Wiltshire Core Strategy Core Policy 43 Providing Affordable Homes, establishes that all housing developments in Westbury should normally include at least 30% affordable housing.'

2.1.1.2 Amend the bullet point headed "Parish and Town Councils" to replace the wording after "These are called 'allocated sites'" as follows:

'The original intention for the Neighbourhood Plan was that it should anticipate and meet the local requirement of 90 houses identified through the Local Plan preparation. However, this ultimately proved not to be possible within this Plan.'

2.1.2 Delete paragraphs 2.12 – 2.21 including the related Info boxes.

2.2 Under the heading "What Does Sustainable Development Mean in Westbury?", in paragraph 2.24 either ensure that "clicking the picture of the SDGs to the left will take you to an in depth description on the UN website" or remove this guidance.

2.3 Under the heading "Vision and Objectives" within Objective 10 replace "Development should contribute towards the improvement of air quality" with 'Development should not worsen air quality in the Town Centre'.

2.4 In Figure 7:

2.4.1 Identify the areas of Local Green Space and Special Landscape Area more distinctly such that there is no confusion between the two.

2.4.2 Change the annotation for Westbury Leigh from "Preserve and enhance" to 'Protect and enhance'.

2.4.3 Change the Key to show 'Settlement Boundary (as defined in the Wiltshire Housing Site Allocations Plan 2020)' in place of "Development Boundary".

2.4.4 Allocated sites: delete the two identified sites and their annotations.

2.5 Under the heading "Planning Policy", review the Policy listing in the light of the Recommendations in this Report and bring the subsequent Section heading pages into line with this.

4.0 POLICIES: DESIGN, DEVELOPMENT AND HOUSING DEVELOPMENT AND SENSITIVE NATURAL ENVIRONMENT

The NPPF at paragraph 174 is clear that "Planning policies and decisions should contribute to and enhance the natural and local environment ...". It is vital that the Neighbourhood Plan acknowledges and addresses the local issues relating to important local habitat sites.

It is evident that Policy DDH1 applies to all development, not just housing. It is also evident that there is significant overlap with the purpose of Section 8. However, I accept the reasoning for making this important Policy particularly prominent. The Qualifying Body agreed that Policy DDH1 should be given a section of its own, emphasising its applicability to all development within the Neighbourhood Area, allowing for some existing and proposed (as per local authority comments) substantial repetitions to be avoided.

The local authority has made a number of recommendations which the Qualifying Body accepted:

The Habitats Regulations should be cited in full in the policy wording, as should the Bat Special Area of Conservation (SAC) Planning Guidance for Wiltshire 2015 and the Trowbridge Bat Mitigation Strategy (TBMS) 2020 Supplementary Planning Document. It is recommended that the title of the policy is amended to relate to the European sites it is seeking to protect rather than the HRA process.

The policy refers to the Habitat Regulations instead of the Habitats Regulations.

It is recommended that the policy wording is amended to state that new developments should comply with the latest iteration of Wiltshire Council's TBMS SPD to allow for future updates to this document.

It is recommended that this policy is amended to remove reference to Salisbury Plain SAC as the recreational impacts are only relevant to the Special Protection Area (SPA). It is also recommended that reference to Wiltshire Council's mitigation strategy for Salisbury Plain SPA – HRA and Mitigation Strategy for Salisbury Plain SPA (2018) – is added to the policy wording and the supporting text. The supporting text refers to the 6.4km buffer around Salisbury Plain SPA but does not explain the origin of this buffer, i.e., the mitigation strategy.

Recommendation 3:

3.1 Add a new Policy Section before page 24 with its own number and colour, titled 'Development in a Sensitive Natural Environment' and:

3.1.1 Relocate/take in the content of page 25.

3.1.2 Correct the opening of paragraph 4.3 to replace "It is a designated Special Areas of Conservation (SAC)" to read 'It is a designated Special Area of Conservation (SAC)'; add to the second sentence 'established within the Wiltshire Council's HRA and Mitigation Strategy for Salisbury Plain SPA (2018)'.

3.1.3 Renumber and retitle Policy DDH1 as 'Policy DSNE1: Protection of Habitat Sites of European Significance'.

3.1.4 Amend the Policy wording to:

3.1.4.1 Cite in full The Conservation of Habitats and Species Regulations 2017, the Bat Special Area of Conservation (SAC) Planning Guidance for Wiltshire 2015 and the Trowbridge Bat Mitigation Strategy (TBMS) 2020 Supplementary Planning Document.

3.1.4.2 Add reference to Wiltshire Council's HRA and Mitigation Strategy for Salisbury Plain SPA (2018).

3.1.4.3 In the second paragraph remove reference to Salisbury Plain SAC.

3.2 Amend the numbering of subsequent Policy Sections and Policies accordingly.

As renumbered and amended Policy DSNE1 meets the Basic Conditions.

SUSTAINABLE DESIGN AND CONSTRUCTION

A representation comments: "Policy [DDH2] goes beyond the requirements in national and adopted local planning policy (particularly Core Policy 41) and, therefore fails to conform with basic conditions (a) and (e)." Whilst it is open to Neighbourhood Plans to vary the terms of national and local policy, this must be done on the basis of proportionate local evidence. I am not presented with any evidence of particular policy requirements for the Neighbourhood Area, including the Housing Quality Mark or optional water standards, just an apparent desire to leap ahead of the Local Plan Review which is still in progress.

At paragraph 4.7 it is stated: "it is recognised that there is a need for flexibility in the application of policy DDH1 [which should have read DDH2 but is now correct because of the numbering amendment above] in recognition of viability, materials, and construction industry skills, with the aim of 100% of new buildings built being net zero carbon". However, the Policy wording does not accord with this 'recognition'. It is one thing to express an 'aim' – quite another to require "New development schemes [to] be supported by a Sustainability and Energy Statement to demonstrate how operational net zero development has been

delivered and if this cannot be achieved, sets out clearly why it is not considered viable". This 'requirement' does not accord with national and local policy expectations at this time. If that sentence is omitted then the Policy more appropriately accords with the necessary "flexibility" referenced in the pre-amble and is appropriate at this point in time.

I am unconvinced that the "Info" page (page 29) is sufficiently explanatory of any of its content, but since the source is provided and the reference details for that have already been provided, interested persons can seek the additional information they may need.

Recommendation 4:

Under the heading "Sustainable Design and Construction":

4.1 In paragraphs 4.9 and 4.10 amend the "DDH2" references to 'DDH1'.

4.2 Within Policy DDH2:

4.2.1 Amend "DDH2" to 'DDH1'.

4.2.2 Delete the second sentence.

4.2.3 In the second paragraph replace "are expected to demonstrate" with 'should address'.

4.2.4 In element (a) replace "meeting the zero-carbon energy use targets" with '(or an equivalent)'.

4.2.5 In element (e) delete "all new development should include a recognised overheating risk assessment (Home Quality Mark (HQM))¹⁷ or equivalent)".

4.2.6 In element (f) delete "through water resource measures and application of the 'Housing: optional technical standards' guidance in new developments".

4.2.7 In element (h) delete "- All new development should use sustainably sourced materials during construction (HQM or equivalent)".

4.2.8 Delete the explanatory panel relating to the Housing Quality Mark.

As renumbered and amended Policy DDH1 meets the Basic Conditions.

HIGH QUALITY, LOCALLY DISTINCTIVE DESIGN

This section seems to be comprehensively presented. Paragraph 126 of the NPPF emphasises that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this." In these respects, the status of the supporting document (referenced within Policy DDH3) "Character Statement and Design Guide" is clear: "This document provides supplementary detail to Neighbourhood Plan policies that guide the assessment of future development proposals and encourage well-designed, beautiful and safe spaces that support communities' health and well-being." However, the status of the "Westbury Conservation Area Appraisal and Management Plan" is less clear: "This guidance document will be a material consideration with regards to the implementation of the local plan policies through development management functions of Wiltshire Council"; however, the Westbury document is not listed on the relevant page of the Wiltshire Council website (www.wiltshire.gov.uk/planning-conservation-areas) suggesting that it has not been adopted by the Council. The document

itself makes a number of references to “Council” but it is unclear in context whether this is intended to mean Wiltshire or the Town Council; if the latter there is no legal basis for the Town Council to manage a Conservation Area. The legislation enabling Conservation Areas is different from that enabling Neighbourhood Plans. The local authority has advised: “Regarding Conservation Appraisals undertaken by outside bodies, Wiltshire Council tries to ensure that they do not commit the Council to works that we are unable to bring forward. So, we have largely suggested that they avoid management proposals.” I would go further and say that the “Management” element of the “Character Statement and Design Guide” is inappropriate in the absence of prior adoption by the local authority; therefore, the title and content need to be amended to restrict the document to Appraisal alone. Arguably the Conservation Area Appraisal might become a sub-section of the Character Statement and Design Guide, making the guidance comprehensive, but I have stopped short of this recommendation because it is not necessary to meet the Basic Conditions. I will address the required alterations to the Character Statement and Design Guide when I later consider the Annexes.

The local authority has commented in relation to the wording of Policy DDH3 (now to be renumbered as DDH2): “It may be useful to reference the Local Plan Core Policy 57 ‘Ensuring a high standard of design and place shaping’ and possibly the Wiltshire Design Guide SPD which, when published, will support Core Policy 57.” It is evidently problematic for a Policy to reference a document yet to be published, but the supporting text can and the Policy can suggest that ‘all’ rather than “any” Wiltshire design guides should be addressed. I note the expectation that “Major development proposals are to be submitted with a Building for a Healthy Life assessment”; whilst this might be considered a good practice expectation it is not a national requirement. More appropriately the Policy might say: ‘To be supported, major development proposals should be submitted with a Healthy Life Assessment’.

Recommendation 5:

Under the heading “High Quality, Locally Distinctive Design”:

5.1 Insert a new paragraph 5.13 (and renumber subsequent paragraphs accordingly) as follows: ‘High quality design is also supported by Local Plan Core Policy 57 ‘Ensuring a high standard of design and place shaping’ as does the forthcoming Wiltshire Design Guide SPD which, when published, will support Core Policy 57.’

5.2 In paragraph 4.13 delete “and Management Plan”.

5.3 Within Policy DDH3:

5.3.1 Amend “DDH3” to ‘DDH2’.

5.3.2 In the second paragraph replace “and Management Plan (CAAMP – “ with ‘(‘ and refresh the accompanying image.

5.3.3 In the third paragraph replace “are to be submitted with a Building for a Healthy Life assessment” with ‘accompanied by a Building for a Healthy Life assessment will allow proposals to be more readily evaluated’ and in the last-but-one line replace “any” with ‘all’.

As renumbered and amended Policy DDH2 meets the Basic Conditions.

ALLOCATION OF LAND FOR HOUSING

As noted earlier, in the light of changed circumstances, this section must now be deleted.

Recommendation 6:

6.1 Delete the sub-section headed “Allocation of Land for Housing” along with Policies DDH4 and DDH5 and the related Figure 9.

6.2 Renumber subsequent paragraphs, figures and Policies accordingly.

HOUSING TO MEET LOCAL NEEDS

Within this section the local authority has noted that “Discounted market affordable housing is not a term used by Wiltshire Council – this is confusing/ what tenures are included? Do you mean affordable housing? Officers suggests terms need revisiting throughout the document.” The Qualifying Body agreed that some confusion had arisen and therefore a correction is required. Also, the local authority noted that “A sentence after paragraph 4.27 may be useful to recognise the emerging Local Plan and the expectation that affordable housing provision should accord with the requirements of that Plan, if different.” The Qualifying Body agreed and suggested adding: “Upon its adoption, it is expected that the provision of affordable housing will accord with updated policies of the Wiltshire Local Plan 2020-38”. The local authority also drew attention to the misleading wording of paragraph 4.29.

The NPPF at paragraph 62 says that “the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies”. It is therefore appropriate that the Neighbourhood Plan has commissioned its own, independent research. However, as the local authority points out, “Housing need is ever-changing, it should be reviewed, and prioritising schemes based on delivering 1,2 and 3 bed homes may not necessarily be correct. It should be noted that the Council’s Housing Register will also be a source of affordable housing need when considering planning applications and the mix will be considered in line with current, demonstrable need as shown on the Council’s Housing Register.” Accordingly, the Qualifying Body agreed that some revisions to the wording of Policy DDH6 were required. It is also not appropriate for the Policy to repeat NPPF content, or variants that have not been justified by specific local evidence.

Recommendation 7:

Under the heading “Housing to Meet Local Needs”:

7.1 Replace all references to “discounted market” housing with ‘affordable routes to home ownership’.

7.2 Delete paragraph 4.25 since this notes the detail of national standards which are not particular to Westbury; renumber subsequent paragraphs accordingly.

7.3 In paragraph 4.27:

7.3.1 Delete the first two sentences.

7.3.2 Amend “at least 30%” to ‘between 30% and 40%’.

7.3.3 Add at the end: ‘Upon the adoption of Wiltshire Local Plan 2020-38, it is expected that the provision of affordable housing will accord with its updated policies.’

7.4 Amend the first sentence of paragraph 4.29 as follows:

‘25% of affordable housing will be expected to be offered as First Homes. Within Westbury the baseline 30% First Homes discount is considered adequate to enable the product to be effective and accessible.’

7.5 Restructure Policy DDH6 (now renumbered as DDH3) as follows:

‘1. To be supported development proposals for new homes in Westbury should:

a. Ensure the delivery of rented and owner-occupied homes in a tenure-blind mix, design and layout;

b. Increase the supply of affordable homes in conformity with adopted Wiltshire Council affordable housing policy;
c. Address the specific, local housing needs identified in the Westbury Housing Needs Assessment (2021) or updated evidence of housing need that has been validated by the local planning authority; particular attention should be demonstrated for:

- smaller dwellings (one, two and three bedrooms);*
- accessible and adaptable housing that includes two and three bed bungalows and ground floor flats with level access showers/ wet rooms;*
- supported housing that is designed to provide a high quality of life for local older and disabled people who need to move home but wish to remain within the community in appropriate locations that are within ten minutes easy walk of local facilities and / or a bus stop.*

2. Support will be given in principle to proposals for community led development of housing and/or community facilities that contribute towards meeting identified housing and community infrastructure needs.'

As renumbered and amended Policy DDH3 meets the Basic Conditions.

PRE-APPLICATION COMMUNITY ENGAGEMENT

Under paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, there is a requirement that Neighbourhood Plans 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 2004. Policy DDH7 however relates to a procedural matter, and in particular to clarifying the interests of the Town Council. It is the local planning authority who must determine the local planning application validation requirements and, subsequently, the acceptability or otherwise of any planning application.

The Qualifying Body has commented that "Through the Neighbourhood Plan Policy and Protocol, locally specific detail is added to enable the delivery of that aspiration [for early engagement] outlined in the NPPF and in national planning guidance as set out in the supporting text". But the Neighbourhood Plan does not need to repeat Policy nor move outside of land use content. It is my assessment that Policy DDH7 is in fact akin to a Community Project for which Planning Policy Guidance says: "Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, [but] actions dealing with non land use matters should be clearly identifiable." (Planning Policy Guidance Paragraph: 004 Reference ID: 41-004-20170728). The content of DDH7 therefore needs to be numbered and given an appearance distinctly different from the land use policy content, and I suggest that it is retitled as 'Statement of Community Engagement'. The Qualifying Body has suggested alternative wording for what will now be the preamble to the Protocol; however, I don't believe the amendment is necessary to meet the Basic Conditions.

Recommendation 8:

Amend the section headed "Pre-Application Community Engagement" and the Policy headed "Draft Policy DDH7: Pre-Application Community Engagement" so that they appear distinctly different from the land use content. Retitle these respectively as: 'Statement of Community Engagement' and 'Westbury Community Pre-Application Engagement Protocol'. Provide a hyperlink to the "Protocol" (in like manner to the link provided to the Wiltshire equivalent) which is to be held on the Westbury Town Council website.

As amended the Basic Conditions are met.

5.0 POLICIES: TRANSPORT AND MOVEMENT GETTING AROUND WESTBURY

I noted the local authority comment: "Officers support commitments to Policy TM1: Active travel based on the principles of the sustainable transport hierarchy". However, it is unclear how the Policy TM1 expectation that "[applicants (?) will] demonstrate through ongoing monitoring whether [challenging] targets are being met" might be achieved. How might this monitoring be required and what recourse might there be if targets are not being met? The Qualifying Body responded that "The aim [therefore] is to supplement the monitoring already undertaken by the town Council, where appropriate (for major development), monitoring might be achieved through a developer commitment to achieving specified targets and agree to a review and monitoring process. Failure to achieve such targets may result in the application of mitigation (remedial) measures, agreed as part of a Planning Obligation (S106 agreement or Unilateral Undertaking)."

Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:

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

(Planning Policy Guidance Paragraph: 002 Reference ID: 23b-002-20190901 with my *emphases* added). In the absence of any clarity on how any data collected might exclusively relate to the development under consideration, clarity on what might be realistic targets, nor any detail on what remedial measures might be that could reasonably be effected after the development has been completed, there is insufficient clarity for this element of the Policy to meet the Basic Conditions.

Recommendation 9:

Within Policy TM1:

9.1 Reference Figure 11 at the end of the first sentence.

9.2 From the second paragraph delete: "Developments will set appropriate, challenging targets for modal shift in a travel plan, and demonstrate through ongoing monitoring whether these targets are being met."

9.3 In the last sentence of the second paragraph amend "figure" to 'Figures'.

As amended Policy TM1 meets the Basic Conditions.

HIGHWAYS IMPACT AND IMPROVEMENTS

The local authority has commented: ""The status of Figure 12 is not as clear as it should be. Policy TM2 refers to support for the "Key improvement projects...on figure 12" but Figure 12 itself is largely concerned with issues, not the projects to deal with them. It is also labelled "Risks and opportunities". To make the policy clearer, the last paragraph of TM2 could be amended, to read, as a suggestion: "Schemes to alleviate the risks identified in Figure 12, or to achieve the designations and opportunities illustrated, will be supported." This is a helpful suggestion agreed by the Qualifying Body. The local authority has also commented: "The crossing over the railway should not be identified as "dangerous" as its current state, equipped with miniature red/green warning lights, renders it safe if used responsibly; I suggest that "Dangerous" is replaced with 'Constrained'. The local authority also commented: "Officers believe this item [13] applies to Wellhead Drove but, as it is a typical narrow lane with very limited motor traffic, it is not clear what the "no pavement" issue is." The Qualifying Body responded: "This point drew to our attention to the fact that this page should list 15 key points that relate to the map Point 13 should in fact read 'Inaccessible area due to flooding issues'.

I note that Policy TM2 seeks to add local detail to national and local policies, but it must be consistent with the detail in those. The local authority noted: ““As the size of each of the two [proposed] developments is <100 dwellings, officers will not be requiring detailed air quality assessments or further air quality mitigation as part of any future planning application for these two sites. However, should the number of proposed dwellings change and exceed 100, officers would require a higher level of detail on the Air Quality impacts and if required proportionate Community Infrastructure Levy (CIL)/ Section 106 contributions to provide funding towards mitigation measures set out in our Air Quality Action Plan (AQAP). This approach is in line with the Council’s draft Air Quality Supplementary Planning Document (SPD) which is expected to be adopted in late 2023 (public consultation is due to commence on 24 July 2023).” The Neighbourhood Plan should therefore not be a source of confusion.

The local authority has also quoted its expectations in terms of the impact of traffic noise. As these requirements are not particular to the Neighbourhood Area, I feel that they don’t need referencing specifically, not least because they may become outdated.

A representation comments: “the third paragraph [of Policy TM2] can [and should for want of evidence] be deleted as the first paragraph of the Policy [already] requires major development proposals to consider the impact of increased traffic (particularly along the A350) on air quality.” The Qualifying Body responded that it did “not agree with this perspective”, but it is reasonable that unnecessary duplication should be avoided.

Recommendation 10:

10.1 Within Figure 12 under “Key Areas Requiring Attention”:

10.1.1 Amend the list and the map to include the full list of 15 as advised by the Qualifying Body in the attachment to their email dated 7th September 2023.

10.1.2 In item 2 on the list replace “Dangerous” with ‘Constrained’.

10.2 Within Figure 13 provide a key for the map insert to reference the purple-coloured part of the highway of the Air Quality Management Area (AQMA).

10.3 Within Policy TM2:

10.3.1 Under sub-heading “1. Impacts” replace paragraphs 2 & 3 as follows:

‘Proportionately to their scale, developments should have particular regard to the need to improve air quality in Westbury and specifically to meeting the objectives of the Air Quality Management Area as identified on figure 13. The cumulative effect in combination with other developments must also be taken into account.’

10.3.2 Under sub-heading “2. Improvements” delete paragraph 1 and delete “also” from the second paragraph; replace the final paragraph as follows:

‘Schemes to alleviate the risks identified in Figure 12, or to achieve the designations and opportunities illustrated, will be supported.’

As amended Policy TM2 meets the Basic Conditions.

LOW / ZERO EMISSION VEHICLE CHARGING

I queried with the Qualifying Body whether Policy TM3 adds any content particular to the Neighbourhood Area (eg location details) beyond the expectations of the NPPF and Building Regulations. The Qualifying Body responded by acknowledging that “this topic is being addressed through building regulations, NPPF and broader national policy”. It is therefore appropriate that this Policy is deleted from the Neighbourhood Plan.

Recommendation 11:

Delete Policy TM3 and its supporting text.

**6.0 POLICIES: TOWN CENTRE AND ECONOMY
WORKING AND LIVING IN WESTBURY**

Policy TCE1 has regard for national and local policy but, as written, lacks clarity. I queried with the Qualifying Body why, whilst there is an expectation for “the incorporation of studios and workshops” to have regard for impact on neighbours, it was not apparently also an expectation for “working spaces which encourage homeworking and creative small businesses”; this seemed to be anomalous. The response suggested that this was not intended. I also noted that the second paragraph is very broad brush; consequently, it would be appropriate to add ‘in principle’ to the wording since the detail of some specific proposals may be unacceptable.

Recommendation 12:

Within Policy TCE1:

12.1 Restructure the first paragraph as follows:

‘Insofar as planning permission is required, development proposals that incorporate studios and workshops which facilitate homeworking or creative small businesses will be supported, provided they demonstrate appropriate regard for their impacts on neighbouring properties.’

12.2 Add ‘in principle’ at the end of the second paragraph.

As amended Policy TCE1 meets the Basic Conditions.

TOWN CENTRE

The pre-amble and Policy TCE2 presume that a “Town Centre” boundary has been defined, but in fact it is not stated from where the boundary is derived and at what date. The Qualifying Body has advised that the boundary is derived from Wiltshire Core Strategy Policy TC1 illustrated on Policies (inset) Map 14: Westbury.

On page 80 of the Westbury Town Centre Vision Report it is said: “The proposals on the following page outline *a series of options* [my emphasis] from minor public realm changes to small development projects through to more substantial interventions which would be aimed at boosting integration and cohesion around the town centre.” It is unclear from the related Policy TC2 in the Neighbourhood Plan whether selections are being made from the “options” presented and, if so, on what basis the selections have been made. The Qualifying Body has explained: “Selections are made from the Town Vision that are its highlighted projects that would probably contain development proposals requiring planning applications”. This could therefore be more apparent in the Policy text.

Within Policy TCE2 the Qualifying Body has suggested, for clarity, that the term “activating” should be replaced with ‘regenerating’. Also, because the last paragraph of the Policy is very broad brush, the Qualifying Body agreed that it would be appropriate to add ‘in principle’ to the wording since the detail of some specific proposals may be unacceptable.

Recommendation 13:

13.1 To Figure 15 on page 57 add source references for the Town Centre and Conservation Area boundaries.

13.2 Within Policy TCE2:

13.2.1 Restructure the first paragraph as follows:

‘Development proposals which arise from, or contribute positively to the implementation of the Westbury Town Centre Vision [add footnote with source reference] will be supported, in particular the following:’

13.2.2 *In proposal (d) replace “activating” with ‘regenerating’.*

13.2.3 *In the second paragraph omit the “such as” phrases since these may limit the perceived application of the Policy.*

13.2.4 *Add ‘in principle’ at the end of the last paragraph.*

As amended Policy TCE2 meets the Basic Conditions.

7.0 POLICIES: HERITAGE AND LANDSCAPE VALUED LANDSCAPE SETTING AND VIEWS

Whilst Policy HL1 has support within the NPPF (para 174) for landscape protection, I noted to the Qualifying Body, who agreed, that the first sentence of the Policy appears to be unnecessary and potentially misleading – the landscapes are not of uniform merit, which the pre-ambule has made clear.

Recommendation 14:

14.1 *To Figure 16 on page 61 add source references for the Special Landscape Area and Site of Special Scientific Interest boundaries.*

14.2 *Within Policy HL1 delete the first sentence.*

As amended Policy HL1 meets the Basic Conditions.

LOCAL HERITAGE

In line with the earlier recommendation regarding the Conservation Area Appraisal and Management Plan, this section also needs editing to remove the “and Management Plan” from references and the acronym. The local authority has noted that, in Figures 17 & 18 (and also in the Character Statement and Design Guide, page 22), Grade II and Grade II* seem to have become confused/ transposed. They have also requested that for Figure 18 a paragraph be added explaining what is being referred to by the red star.

I made a number of detailed comments about the clarity of the wording of Policy HL2 and the Qualifying Body agreed that the Policy would benefit from a simplification, avoiding inappropriate repetition of national or local policies.

Recommendation 15:

15.1 *Re-edit the section headed “Local Heritage” to replace references to “Conservation Area Appraisal and Management Plan” and “CAMMP” [sic] or “CAAMP” with ‘Conservation Area Appraisal’.*

15.2 *In Figures 17 & 18 (and also in the Character Statement and Design Guide, page 22), correct the transposition of Grade II and Grade II* Listed Buildings.*

15.3 *In Figure 18 add to the key for the red star: ‘Becks Mill’.*

15.4 *Restructure Policy HL2 as follows:*

‘In line with national and Wiltshire Policy, development and repurposing proposals affecting a heritage asset (including but not restricted to any sub-surface archaeological remains) will require special care. Within the Neighbourhood Area the following are amongst the areas and matters requiring particular attention:

1) Westbury Conservation Area (see Figure 17)

Proposals must demonstrate appropriate regard for the heritage assets and characteristics detailed in the Westbury Conservation Area Appraisal (Annexe 2).

2) *Westbury Leigh Area of Local Heritage (see Figure 18)*

Proposals should demonstrate appropriate regard for the characteristics that contribute to the significance of the area's local architectural and historic interest as set out in the Westbury Character Statement and Design Guide (Annexe 3).

3) *Local Non-designated Heritage Assets*

For properties/assets identified in the Locally Valued Non-Designated Heritage Assets Report (Annexe 4), development proposals should demonstrate appropriate regard for the significance of the heritage asset and the elements that contribute to its significance.

4) *Re-use of Historic Buildings*

To ensure the long-term survival of irreplaceable heritage assets, proposals to appropriately repurpose buildings will be supported provided appropriate regard for the significance of the asset is demonstrated.'

As amended Policy HL2 meets the Basic Conditions.

RETROFITTING HISTORIC BUILDINGS

In relation to Policy HL3 the local authority commented and the Qualifying Body agreed that: "This policy needs to reflect the National Planning Policy Framework (NPPF) approach to dealing with heritage assets. Less than substantial harm to heritage assets may be acceptable where that is outweighed by public benefits. In the climate emergency, there is no greater public benefit than mitigating and adapting to climate change. So, on a case-by-case assessment, some minimised harm/ reversible impacts to the significance of heritage assets shall be acceptable."

Recommendation 16:

Restructure Policy HL3 as follows:

'Proposals for modifications to buildings in the Conservation Area, or to a Listed Building, should address the advice from Historic England (Energy Efficiency and Historic Buildings: How to Improve Energy Efficiency) [source reference required]. On a case-by-case assessment, some minimised harm/ reversible impacts to the significance of heritage assets may be acceptable when weighed against the public benefit of mitigating and adapting to climate change.'

As amended Policy HL3 meets the Basic Conditions.

8.0 POLICIES: QUALITY OF LIFE AND ENVIRONMENT NATURAL ENVIRONMENT AND QUALITY OF LIFE

Paragraph 8.8: I am advised that the reference to "(see para 267f)" is a text error. It is not required that the text provides a commentary on the published legislation so the content can be kept simple.

I queried with the Qualifying Body why, apart from referencing Figure 20, Policy QL1 says nothing particular about the Neighbourhood Area and therefore might be considered to duplicate other Development Plan content. The Qualifying Body responded:

"Figure 20 is the key spatial expression for this policy which grounds it in the Neighbourhood Area. The aim of this policy is to ensure appropriate consideration is given to the network of natural features in the Neighbourhood Area which contribute fundamentally to quality of life in the town. Figure 20 is the key reference point. Other key details of the local GBI network are referenced in figure 19 and could usefully be referenced in the policy? This policy is also supported by the Quality of Life and Wellbeing Report prepared as part of the process of drafting the Neighbourhood Plan. It includes information which might be usefully referenced

in the supporting text. In particular there is text pertinent to point 5 of the policy but which is not included in the Plan currently:

The Woodland Advisory Committee (FWAC) Network recommends that a minimum standard for tree canopy cover is set for a local area, with evidence showing that 20% is a good aspiration. The majority of Westbury's built area has been assessed for tree canopy coverage and is shown to be around 7.5%³. An increase in tree canopy in Westbury should therefore be encouraged. Wellhead Springs is highly valued area of woodland for recreation and wildlife."

It would be inappropriate now to add content which has not been the subject of consultation. My concern remains that most of the content of Policy QL1 is a rehash of existing planning policies (which will apply whether or not the Neighbourhood Plan is made) whereas the local element – the table on page 77 – is not actually part of the Policy but simply supporting text. However, on balance, as a mechanism to bring content together, the Basic Conditions are met; my recommendations are aimed at better establishing the local relevance of the Policy. The last-but-one paragraph certainly does not add any clarity to the Policy and largely duplicates in many more words what has already be said more appropriately in the opening sentence.

Recommendation 17:

17.1 Paragraph 8.8: delete "of 10% net gain, including exemptions (see para 267f)".

17.2 Within Policy QL1:

17.2.1 In the opening sentence replace "have" with 'demonstrate'.

17.2.2 In element 4 delete "and detailed on page 77".

17.2.3 Delete the last-but-one paragraph.

17.2.4 Rephrase the last paragraph as: 'Proposals are encouraged to provide evidence of meeting the Building with Nature Standard' [source reference required].

17.3 Add to the title of Figure 20: 'supporting detail for the GBI Corridors is provided on the following page'; on Page 77 replace "figure 21" with 'on the previous page'.

As amended Policy QL1 meets the Basic Conditions.

WESTBURY'S GREEN SPACES

I noted to the Qualifying Body that paragraph 8.10 slightly misquotes the NPPF criteria and the supporting evidence document (as well as on page 80 of the Plan) truncates the criteria, suggesting that the criteria had not been considered in full. The NPPF at paragraph 102 says that it must be shown that the Local Green Space is "*demonstrably* special to a local community *and* holds a *particular* local significance" [*my emphases added*]. Generalised assessments such as "Important green space within local area" do not suggest that the criteria have been met. However, having visited the Area I was able to conclude that the NPPF criteria have been met for all but two of the proposed Local Green Spaces, the exceptions being LGS4, where there was no evidence that the space was other than incidental to the layout of the estate through which it runs, and LGS21, which more obviously fits the definition of Community Open Space. As with Figure 20, the interconnection between Figure 21 and the supporting tabulated key should be more evident. Some errors with the detailing of Figure 21 need correcting.

The local authority has noted that "It is worthwhile referencing within the draft WNP that local green spaces when adopted have the same policy weight as Green Belts." However, Green Belt protection doesn't specifically reference or suggest the part of Policy QL2 that states

“and where the proposals enhance the existing use of the space, particularly regarding the characteristics that underpin designation”. The Qualifying Body has responded that the inclusion of the highlighted words “is to be clear that development, where it is compatible with the use of the land as a Local Green Space, such as sports related development or a café for example, would be allowed” but that is not an accurate reflection of Green Belt Policy as, for example, a new facility may not preserve the required “openness”. Policy QL2 should not confuse what the NPPF actually says.

In relation to the wording of Policy QL2 the local authority has noted:

“The policy is listed in Section 3 and the beginning of Section 8 as “Protection and Enhancement of Westbury’s Green Spaces” however the actual policy is titled “Westbury’s Green Spaces.” The Qualifying Body responded that Sections 3 and 8 should be retitled as ‘Westbury’s Green Spaces’; an earlier recommendation addressed this point.

“2. Community Open Spaces: The wording leaves scope for the protection of open space taking precedent over the operational or community needs for these areas of land, that are associated with community facilities (in our case, library, schools, and community centres). The first paragraph is helpful, but it is not clear whether the second paragraph means that, regardless of whether a case is made that development should take place, that ensures the viability of the community facility, there would still be a need to replace any open space lost. So, [of] clarification is needed.”

“In the case of COS 5, Wiltshire Council (landowner) continue to question whether this designation is appropriate for those areas of that site that are allotments. It would seem appropriate that the relevant legislation around the protection of allotments is the basis for determining future use of these plots.” I note that local planning policy could recognise the value of the open space but not override any legislative protections or requirements.

Also, Officers suggested revising point 3 of Policy QL2, which as it stands indicates that all new housing should include private and communal spaces. However, new infill housing development for 1 or 2 houses are unlikely to have any community green space and, so therefore, [their inclusion] would not be justified.” The Qualifying Body agreed that rewording was required.

In relation to Community Open Spaces, I noted that COS3 (incorrectly shown on the supporting Report map as COS4) has not been included on Figure 21 (nor Figure 7) and, in the absence also of a schedule of COS designations, has not been the subject of public consultation and therefore should be omitted. COS12 is said to be wanted by the local community “for community barbeques and events” but secure fencing suggests that the land is not publicly accessible. The Qualifying Body advised that “The land is included on a list of Wiltshire Council owned assets which may potentially be transferred to Westbury Town Council ownership”; any designation ought therefore to await completion of that transfer.

Recommendation 18:

18.1 Correct the second bullet point of paragraph 8.10 to include the word “particular” exactly as included in NPPF paragraph 102.

18.2 Within Policy QL2:

18.2.1 Reword paragraph 1 as follows:

‘Local Green Spaces, as shown on figure 21 and detailed in Annexe F, are designated for protection that accords with national policy for the Green Belt.’

18.2.2 Reword the second sentence of paragraph 2 as follows:

‘Other than in these circumstances, the loss of Open Space will only be supported where alternative equivalent or better provision has been secured, or an assessment has demonstrated that the Space is surplus to requirements.’

18.2.3 *Reword paragraph 3 as follows:
'Proposals for new housing development should include well-designed outdoor private space, and community space appropriate to the scale of the development.'*

18.3 *Amend Figure 21 (including the accompany key table) as follows:*

18.3.1 *Delete spaces LGS4, COS3 (incorrectly shown on the map as COS4) and COS12; redesignate LGS21 as COS; renumber the remaining spaces appropriately and completely, ensuring that the table is consistent with the map.*

18.3.2 *Add to the title for Figure 21: 'The key to the numbering of spaces is overpage. Also see Annexe F for further details.'*

18.3.3 *Delete from the tabulation on page 80 the incomplete record of "criteria" (leaving to Annexe F to provide the necessary detail); add to the tabulation the key to each COS shown on the map.*

18.3.4 *Ensure that Annexe F includes maps of each space at a scale which allows boundaries to be identified with clarity and accuracy.*

As amended Policy QL2 meets the Basic Conditions.

COMMUNITY AND SPORT FACILITIES

The local authority has raised a particular query in relation to Policy QL3:

"Officers note that the school sites are shown as community use areas. Whilst Wiltshire Council will not be able to expand any of the schools, there are plans to expand the nursery on the Westbury Leigh Primary School site. The understanding of officers is that Policy QL3 would not prevent the Council from undertaking this project in a 'community use' area as the Council would be able to demonstrate the benefits to the community, e.g., to prevent a deficit of early years places caused by new housing." Some improvements to wording could clarify this point.

I see the first sentence of Policy QL3 as tautological – the purpose of designating spaces as community or sports facilities is in recognition of their significant community and health and well-being value. Section 1 of the Policy is very broad brush; consequently, it would be appropriate to add 'in principle' to the wording since the detail of some specific proposals may be unacceptable.

Recommendation 19:

Reword element 1 of Policy QL3 as follows:

'Proposals to improve or create new community and sports facilities to serve the Neighbourhood Area, where the need and benefits of the proposed facility are demonstrated, are supported. Where replacement or enhanced facilities are proposed as appropriate mitigation against the loss of any community facility within the Area, they are supported in principle. New facilities should be located where there is a choice of travel options and should be accessible to all members of the community.'

As amended Policy QL3 meets the Basic Conditions.

STRENGTHENING AND PROMOTING WESTBURY'S DISTINCTIVENESS THROUGH THE ARTS

I commented to the Qualifying Body that Policy QL4 appears to be a mixture of Community Project and land-use policy and they provided a revised wording which is the basis of my recommendation. It is not possible to Policy reference a future document that has yet to be the subject of public consultation.

Recommendation 20:

Reword Policy QL4 as follows:

‘Proposals for public art that contribute to the creation of places that reflect heritage, culture and/or natural assets of Westbury and that, where possible, form an integral part of the overall vision for a site and its setting, will be supported.

Proposals for public art should be informed and developed with regard to Wiltshire Council’s Guidance Note “Public Art and Design in the Public Realm (2011)” [source reference required] or any subsequent update.’

As amended Policy QL4 meets the Basic Conditions.

9.0 FUNDING, PROJECTS AND MONITORING OF THE PLAN**PROJECTS LIST**

The Projects List in this section can be regarded as beyond the essential scope of the Examination. However, the local authority has made a number of comments which the Qualifying Body has welcomed and indicated that content may be revised accordingly.

10 GLOSSARY AND BIBLIOGRAPHY

The local authority has noted:

““Zero-carbon home’ is defined.” However, the definition only covers operational energy, and a truly progressive plan would seek to include embodied carbon into such a definition or needs to be referred to as a “zero-carbon home in operation”.” The Qualifying Body agreed that the definition should be reviewed.

In view of the earlier recommendation to provide document source referencing in footnotes, the “External References” section should be reviewed to minimise content duplication.

ANNEXES & APPENDICES

I note that neither category of “supporting” documents is actually incorporated within the Plan. As noted earlier, I believe there is a distinction to be made between documents that are essential to the implementation of the Plan, and others that provide source evidence from which the Plan has drawn. The former I have regarded as part of the Examination, through which the meeting of the Basic Conditions is being established. I have therefore examined:

Westbury Conservation Area Appraisal and Management Plan – *which was the subject of my earlier recommendation about the appropriate content for this document.*

Westbury Town Centre Vision Report

Westbury Character Statement and Design Guide

Westbury Housing Site Allocations Process Topic Paper – *this can now be removed since the housing allocations have been removed.*

Locally Valued Non-Designated Heritage Assets Report

Local Green Spaces and Community Open Spaces Report

I have the following observations on these:

Westbury Conservation Area Appraisal and Management Plan

As noted earlier, this Report should be restricted to being the ‘Westbury Conservation Area Appraisal’; accordingly, the following amendments are needed (in addition to correcting the title throughout):

- i. Amend paragraph 1.1.3 to replace “local” with ‘neighbourhood’.
- ii. In paragraph 1.2.1 in the second sentence replace “required” with ‘appropriate’.
- iii. Amend paragraphs 1.3.2 & 1.3.3 to remove references to “Management Plan”.
- iv. Delete the headings “PART 3 Management Plan” on page 76 and continue the Part 2 paragraph numberings.

- v. Amend paragraph 3.1.1 as follows:
'Where a listed building is threatened by a lack of maintenance or repair, Wiltshire Council may investigate options to use available statutory powers to make the owner take action.'
- vi. In section 3.3 replace "proposed" with 'suggested'.
- vii. In paragraph 3.4.1 delete "The Council will encourage good quality schemes that respond positively to their historic setting".
- viii. In paragraph 3.5.9 replace "There will be" with 'There is'.
- ix. In paragraph 3.5.10 replace "Wiltshire Council in their determination of planning applications for the conversion of roof spaces should have regard to these" with 'These'; replace "and encourage" with 'can be retained through'.
- i. In paragraph 3.5.13 replace "There should be a general presumption against the permitting of the" with 'The'; add at the end of the sentence "is not appropriate".
- ii. In paragraph 3.5.15 replace "There should be a pro-active approach to the removal of unnecessary" with 'Unnecessary'; at the end of the sentence replace "and the burying of wires where possible" with 'should be removed where possible'.
- iii. In paragraph 3.5.17 replace "will be" with 'are'; replace the last sentence with: 'Improving the present position may mean additional provision or alternative arrangements for present bin provision particularly in new development.'
- iv. In paragraph 3.5.19 replace "Westbury Town Council and Wiltshire Council should consider the potential for the offering of a grant for the" with 'The' and insert 'is encouraged' after "railings".
- v. In paragraph 3.5.21 replace "should be" with 'are'.
- vi. In paragraph 3.6.1 replace "indicate how the Council will view subsequent" with 'to inform'.
- vii. In paragraph 3.6.18 delete "the Council will expect" and replace ", to be" with 'should be'.

Westbury Town Centre Vision Report

I note that the Report says that "The study has been informed by stakeholder engagement"; however, very little detail is provided as to the extent that, for instance, the community, the local authority, the owners of town centre premises were 'engaged'. The Qualifying Body provided a paper "Visioning Exercise" which details examples of the public consultation undertaken as part of the Vision for Westbury project and I suggest that this is appropriately referenced within the Vision Report.

Westbury Character Statement and Design Guide

The Guide is generously illustrated and engagingly presented; the "good examples" feature is particularly useful at showing what is most valued. The Qualifying Body has advised that the areas selected for presentation with the document were done so as to illustrate positive characteristics of a range of character areas across the town. I therefore suggest that this explanation is appropriately added to the Guide.

Westbury Housing Site Allocations Process Topic Paper

Remove from Annexes.

Locally Valued Non-Designated Heritage Assets Report

Since this document contains the only listing of non-designated heritage assets it is vital that it is readily accessible to readers of the Plan. It is perhaps unfortunate that images have only been used to identify individual and not groups of buildings.

The acronym "CAAMP" (often mistyped as "CAMMP") is no longer applicable in view of my earlier recommendation.

Local Green Spaces and Community Open Spaces Report

As I have noted above, the Report appears deficient in its consideration in full of the NPPF criteria. It is also deficient in not showing maps of the areas proposed for designation at a scale that allows the exact boundaries to be readily identified. These two elements should be corrected. There are also multiple references within the Report to a "Planning for Warminster" document and these should be corrected to avoid likely confusion.

Recommendation 20:

20.1 Within the Glossary review the definition of "Zero-carbon home".

20.2 Within the "External References" section review the content to minimise duplication.

20.3 The various Annexes and Appendices should be reviewed in the light of the Recommendations in this report and the particular corrections and clarifications identified in this Report in the section headed "Annexes & Appendices".

Other matters raised in Representations

A few representations to the Plan consultation included suggestions of other matters that the Plan might address. However, a neighbourhood plan must specifically address the development and use of land (Planning Practice Guidance ref: 41-004-20140306). And within that constraint there is no checklist of content that a Neighbourhood Plan must contain or subject matter that it must address; the range of content is entirely at the discretion of the local community and the local issues as they see them. It is not my role as Examiner to test the soundness of a Plan in terms of its topic coverage but rather to consider the content presented against the Basic Conditions. I cannot therefore recommend additional content in the manner that some representations have suggested.

European Union (EU) and European Convention on Human Rights (ECHR) Obligations

A further Basic Condition, which the Westbury Neighbourhood Plan must meet, is compatibility with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

Regulation 9 of the Strategic Environmental Assessment (SEA) Regulations requires that the responsible authority (Wiltshire Council) shall determine whether or not a plan is likely to have significant environmental effects. Wiltshire Council concluded in their Screening Report dated November 2021 that "the draft Westbury Neighbourhood Plan is likely to have significant environmental effects and accordingly a Strategic Environmental Assessment is required". This screening decision was sent to Natural England, the Environment Agency and Historic England, who agreed with the decision that an SEA was required for this Neighbourhood Plan.

Accompanying the submission of the Neighbourhood Plan was an updated Strategic Environmental Assessment dated April 2023. The SEA concluded that "Overall, the assessment has determined that the submission version of the WNP is likely to lead to predominately positive effects. Significant long-term positive effects are anticipated in relation to the population and communities SEA topic, and minor long-term positive effects in relation to the health and wellbeing SEA topic. This is because the WNP supports sustainable growth whilst contributing toward healthy lifestyles." Since the SEA was written the planned housing allocations have been removed from the Plan. For the Examination purposes I am satisfied that this change is likely to have a broadly neutral impact – fewer environmental harms, fewer community benefits. No negative effects arise and therefore I have not requested that the SEA be revisited.

Wiltshire Council's Habitats Regulations Assessment (HRA) Screening of December 2021 concluded, in relation to the European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Conservation of Habitats and Species Regulations 2010 (as amended), that "the Westbury NP has the potential to lead to likely significant effects on two European sites alone and/or in-combination with other plans and projects. This is due to the three allocated sites in policies DDH5, DDH6 and DDH7, and also policies HL1, TM3, TCE2, TCE3, QL2 and QL3 due to the potential for recreational impacts on the Salisbury Plain SPA and physical damage or disturbance to bat species and/or habitats associated with the Bath and Bradford on Avon Bats SAC. It is therefore necessary for nine policies in the NP to be taken forward to appropriate assessment under Regulation 105 of the Habitats Regulations 2017. The appropriate assessment will be conducted by the competent authority, namely Wiltshire Council." The result of the Appropriate Assessment (AA) was reported in November 2022 as follows:

"The allocations set out in Policies DDH4 and DDH5 would be covered by the HRA and Mitigation Strategy for the Salisbury Plain SPA which has also considered potential in-combination effects. An appropriate CIL contribution would be required from any development at these two sites which would support the continued implementation of the HRA and Mitigation Strategy. Any development supported by Policy DDH3 would require a project level HRA to ascertain whether there would be likely significant effects on the SPA as a result of developments supported by this policy. On the basis that the recommendations set out above for the three policies taken forward to appropriate assessment, are incorporated into the NP, it is deemed possible to conclude, beyond reasonable scientific doubt, that there would be no adverse effects on the Salisbury Plain SPA, alone or in-combination with other plans and projects as a result of the Westbury NP."

"There is the potential for the above policies to result in an adverse impact on the Bath and Bradford on Avon Bats SAC through physical damage, interruption of flight lines and disturbance to bats and habitat functionally linked to the SAC and through recreational impact on the woods around Trowbridge that are also functionally linked to the SAC. On the basis that the recommendations set out above for the nine policies taken forward to appropriate assessment, are incorporated into the NP, it is deemed possible to conclude, beyond reasonable scientific doubt, that there would be no adverse effects on the Bath and Bradford on Avon Bats SAC, alone or in combination with other plans and projects as a result of the Westbury NP". It is evident that the recommended amendments to the Neighbourhood Plan had been incorporated within the Submission version of the Neighbourhood Plan.

However, a late response to this Appropriate Assessment was received from the Statutory Consultee Natural England at the commencement of the Examination. This advised: "The AA states that the [two housing] sites appear to be grazed pasture. Cattle grazed permanent grasslands are a key foraging habitat for greater horseshoe bats. The loss of foraging habitat in close proximity to known roosts of bat species linked to the Bath & Bradford on Avon bat SAC would be considered likely to have a significant effect on the SAC and would therefore trigger the need for an Appropriate Assessment. The AA would need to consider whether the foraging habitat on the application site is in close proximity to known maternity roosts of the Annex II species and whether appropriate compensation habitats could be provided. Following conversations with your authority's Ecology Team we understand that there are two night roosts in close proximity to the sites. Whilst we are satisfied that no known maternity roosts for Annex II bat species are located close to the sites, we remain concerned that the quality of habitat has not been assessed. We therefore recommend that the proposed sites are not allocated until a botanical survey to demonstrate the quality of the grazed pastures has been completed. Natural England should be reconsulted on the findings of the surveys. Here we would note that priority grasslands and species rich old cattle pastures are a valuable bat foraging habitats and particularly important for greater horseshoe bats. In addition, Hedgerow features appear to facilitate

reasonable connectivity between the fields and we note that there is a water feature located to the north of the western site (Policy DDH4) which would generate insects and may attract bats. Please note that if either of the DDH4 or DDH5 sites are found to be permanent unimproved grassland then we would consider this to be a valuable resource and would not recommend them for allocation Your appropriate assessment concludes that for Salisbury Plain SPA/SAC the Westbury Neighbourhood Plan will not result in adverse effects to the integrity of the site. Having considered the measures proposed to mitigate for all identified adverse effects to the Salisbury Plain SPA/SAC that could potentially occur as a result of the Plan, Natural England advise that we concur with your conclusion.”

The local authority subsequently clarified that the earliest that an appropriate botanical field survey could be concluded would be mid-2024. In the absence of those survey results the Natural England guidance is clear: “We [therefore] recommend that the proposed sites are not allocated”. This therefore led the Qualify Body to conclude (email dated 17th November 2023) “in the absence of either reliable direct evidence from the landowner or an adequate field survey, it has been decided to formally request the withdrawal of site DDH5, otherwise known as Land between Mill Brook and Coach Road, from the 2023 submission version of the Westbury Neighbourhood Plan.” Site DDH4 had already been stymied at this point because it had been withdrawn by the landowners. Therefore, with no land allocation for housing in the Plan, the basis for the Natural England objection falls away.

With regard to the European Convention on Human Rights, the Basic Conditions Statement that accompanies the Neighbourhood Plan notes:

“(i) Where Local Green Space designations and site allocations are proposed, consultation and notification of inclusion in the NDP has occurred with the landowners concerned. Specific Local Green Space consultation undertaken is outlined in the Local Green Space Report.

ii) In addition, others who are affected by the proposals have been adequately consulted and have had the opportunity to comment on the proposals. The details of the consultation on the Plan are outlined in the Westbury Neighbourhood Plan Consultation Statement which is found on the relevant page of the Westbury Town Council website.”

No evidence has arisen or been put forward to demonstrate that the Qualifying Body has not been mindful of the fundamental rights and freedoms guaranteed under the European Convention on Human Rights in process of preparing the Neighbourhood Plan.

Taking all of the above into account, I am satisfied that the Westbury Neighbourhood Plan, as now significantly modified including the removal of two proposed sites for housing, is compatible with EU obligations and that it does not breach, nor is in any way incompatible with, the ECHR.

Conclusions

This Independent Examiner's Report recommends a range of modifications to the Policies, as well as some of the supporting content, in the Plan. Modifications have been recommended to effect corrections, to ensure clarity and in order to ensure that the Basic Conditions are met. Whilst I have proposed a significant number of modifications, the Plan itself remains fundamentally unchanged in the role and direction set for it by the Qualifying Body.

I therefore conclude that, subject to the modifications recommended, the Westbury Neighbourhood Plan:

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the Plan for the area;
- is compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations;
- does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(d).

On that basis I *recommend* to Wiltshire Council that, subject to the incorporation of modifications set out as recommendations in this report, it is appropriate for the Westbury Neighbourhood Plan to proceed to referendum.

Referendum Area

As noted earlier, part of my Examiner role is to consider whether the referendum area should be extended beyond the Plan area. I consider the Neighbourhood Area to be appropriate and no evidence has been submitted to suggest that this is not the case. I therefore ***recommend*** that the Plan should proceed to referendum based on the Neighbourhood Area as approved by Wiltshire Council on 10th April 2017.

Recommendations: (this is a listing of the recommendations exactly as they are included in the Report)

Rec	Text	Reason
1	<p>1.1 On the front cover, and in any other locations, amend the Plan dates to '2023 – 2036' and remove references to "Submission Plan".</p> <p>1.2 Amend the title for Figure 1 to 'Neighbourhood Area' rather than 'Neighbourhood Plan Area'.</p> <p>1.3 Amend paragraph 1.4 replace "work alongside existing legislation and policy by providing" with 'sit within the Development Plan for Wiltshire and provide'.</p> <p>1.4 Throughout the Plan, wherever a source reference is shown, provide a same-page footnote with brief details of the evidence being relied upon, allowing single document references to be used in the "External References" Section to the rear of the Plan.</p> <p>1.5 On page 11:</p> <p>1.5.1 Add an additional paragraph: 'As noted above, with a 'made' Neighbourhood Plan, 25% of Community Infrastructure Levy (CIL) receipts accrued following approval of new planning applications within the designated area would be passed to the Town Council to support local infrastructure, such as environmental improvements.'</p> <p>1.5.2 In paragraph 1.29, because the related Policies are reliant for essential detail from: E. Locally Valued Non-Designated Heritage Assets Report F. Local Green Spaces and Community Open Spaces Report these documents should be moved from Appendices to Annexes to become Annexes 4 & 5 [see below for the recommendation on the existing Annexe 4]. The Appendices should be renumbered accordingly.</p> <p>1.5.3 Move the marker on the Neighbourhood Plan timeline from "Submit ..." to "Referendum".</p>	For clarity and accuracy
2	<p>2.1 Under the heading "Housing Need":</p> <p>2.1.1 In paragraph 2.11:</p> <p>2.1.1.1 Replace the bullet point headed "Wiltshire Council" as follows: 'Wiltshire Council – the Council is currently preparing a Local Plan that will identify strategic sites to meet housing requirements to 2038; the Plan will also include an indicative requirement to be met through our Neighbourhood Plan. The Pre-Submission Draft Local Plan 2020-2038 identifies a total housing requirement over the plan period for Westbury of approximately 1,400 homes, of which 570 remain to be found. To meet the requirement there are two strategic housing allocations: Land West of Mane Way for 220 houses and Land at Bratton Road for 260 houses (figure 4.42</p>	For clarity and accuracy

	<p>Westbury Policies Map, on page 146 of the Pre-Submission Draft [footnote required]). The Pre-Submission Draft Policy 60, Westbury Market Town, identifies a neighbourhood area housing requirement for Westbury of 90 houses over the same period. The adopted Wiltshire Core Strategy Core Policy 43 Providing Affordable Homes, establishes that all housing developments in Westbury should normally include at least 30% affordable housing.’</p> <p>2.1.1.2 Amend the bullet point headed “Parish and Town Councils” to replace the wording after “These are called ‘allocated sites’” as follows: ‘The original intention for the Neighbourhood Plan was that it should anticipate and meet the local requirement of 90 houses identified through the Local Plan preparation. However, this ultimately proved not to be possible within this Plan.’</p> <p>2.1.2 Delete paragraphs 2.12 – 2.21 including the related Info boxes.</p> <p>2.2 Under the heading “What Does Sustainable Development Mean in Westbury?”, in paragraph 2.24 either ensure that “clicking the picture of the SDGs to the left will take you to an in depth description on the UN website” or remove this guidance.</p> <p>2.3 Under the heading “Vision and Objectives” within Objective 10 replace “Development should contribute towards the improvement of air quality” with ‘Development should not worsen air quality in the Town Centre’.</p> <p>2.4 In Figure 7: 2.4.1 Identify the areas of Local Green Space and Special Landscape Area more distinctly such that there is no confusion between the two. 2.4.2 Change the annotation for Westbury Leigh from “Preserve and enhance” to ‘Protect and enhance’. 2.4.3 Change the Key to show ‘Settlement Boundary (as defined in the Wiltshire Housing Site Allocations Plan 2020)’ in place of “Development Boundary”. 2.4.4 Allocated sites: delete the two identified sites and their annotations.</p> <p>2.5 Under the heading “Planning Policy”, review the Policy listing in the light of the Recommendations in this Report and bring the subsequent Section heading pages into line with this.</p>	
3	<p>3.1 Add a new Policy Section before page 24 with its own number and colour, titled ‘Development in a Sensitive Natural Environment’ and: 3.1.1 Relocate/take in the content of page 25.</p>	For clarity and accuracy

	<p>3.1.2 Correct the opening of paragraph 4.3 to replace “It is a designated Special Areas of Conservation (SAC)” to read ‘It is a designated Special Area of Conservation (SAC)’; add to the second sentence ‘established within the Wiltshire Council’s HRA and Mitigation Strategy for Salisbury Plain SPA (2018)’.</p> <p>3.1.3 Renumber and retitle Policy DDH1 as ‘Policy DSNE1: Protection of Habitat Sites of European Significance’.</p> <p>3.1.4 Amend the Policy wording to:</p> <p>3.1.4.1 Cite in full The Conservation of Habitats and Species Regulations 2017, the Bat Special Area of Conservation (SAC) Planning Guidance for Wiltshire 2015 and the Trowbridge Bat Mitigation Strategy (TBMS) 2020 Supplementary Planning Document.</p> <p>3.1.4.2 Add reference to Wiltshire Council’s HRA and Mitigation Strategy for Salisbury Plain SPA (2018).</p> <p>3.1.4.3 In the second paragraph remove reference to Salisbury Plain SAC.</p> <p>3.2 Amend the numbering of subsequent Policy Sections and Policies accordingly.</p>	<p>and to meet Basic Conditions 1 & 3</p>
4	<p>Under the heading “Sustainable Design and Construction”:</p> <p>4.1 In paragraphs 4.9 and 4.10 amend the “DDH2” references to ‘DDH1’.</p> <p>4.2 Within Policy DDH2:</p> <p>4.2.1 Amend “DDH2” to ‘DDH1’.</p> <p>4.2.2 Delete the second sentence.</p> <p>4.2.3 In the second paragraph replace “are expected to demonstrate” with ‘should address’.</p> <p>4.2.4 In element (a) replace “meeting the zero-carbon energy use targets” with ‘(or an equivalent)’.</p> <p>4.2.5 In element (e) delete “all new development should include a recognised overheating risk assessment (Home Quality Mark (HQM)17 or equivalent)”.</p> <p>4.2.6 In element (f) delete “through water resource measures and application of the ‘Housing: optional technical standards’ guidance in new developments”.</p> <p>4.2.7 In element (h) delete “- All new development should use sustainably sourced materials during construction (HQM or equivalent)”.</p> <p>4.2.8 Delete the explanatory panel relating to the Housing Quality Mark.</p>	<p>For clarity and accuracy and to meet Basic Condition 1</p>

5	<p><i>Under the heading “High Quality, Locally Distinctive Design”:</i></p> <p><i>5.1 Insert a new paragraph 5.13 (and renumber subsequent paragraphs accordingly) as follows: ‘High quality design is also supported by Local Plan Core Policy 57 ‘Ensuring a high standard of design and place shaping’ as does the forthcoming Wiltshire Design Guide SPD which, when published, will support Core Policy 57.’</i></p> <p><i>5.2 In paragraph 4.13 delete “and Management Plan”.</i></p> <p><i>5.3 Within Policy DDH3:</i></p> <p><i>5.3.1 Amend “DDH3” to ‘DDH2’.</i></p> <p><i>5.3.2 In the second paragraph replace “and Management Plan (CAAMP –“ with ‘(and refresh the accompanying image.</i></p> <p><i>5.3.3 In the third paragraph replace “are to be submitted with a Building for a Healthy Life assessment” with ‘accompanied by a Building for a Healthy Life assessment will allow proposals to be more readily evaluated’ and in the last-but-one line replace “any” with ‘all’.</i></p>	For clarity and accuracy and to meet Basic Conditions 1 & 3
6	<p>6.1 Delete the sub-section headed “Allocation of Land for Housing” along with Policies DDH4 and DDH5 and the related Figure 9.</p> <p>6.2 Renumber subsequent paragraphs, figures and Policies accordingly.</p>	For clarity and accuracy and to meet Basic Condition 1
7	<p><i>Under the heading “Housing to Meet Local Needs”:</i></p> <p>7.1 Replace all references to “discounted market” housing with ‘affordable routes to home ownership’.</p> <p>7.2 Delete paragraph 4.25 since this notes the detail of national standards which are not particular to Westbury; renumber subsequent paragraphs accordingly.</p> <p>7.3 In paragraph 4.27:</p> <p>7.3.1 Delete the first two sentences.</p> <p>7.3.2 Amend “at least 30%” to ‘between 30% and 40%’.</p> <p>7.3.3 Add at the end: ‘Upon the adoption of Wiltshire Local Plan 2020-38, it is expected that the provision of affordable housing will accord with its updated policies.’</p> <p>7.4 Amend the first sentence of paragraph 4.29 as follows: ‘25% of affordable housing will be expected to be offered as First Homes. Within Westbury the baseline 30% First Homes discount is considered adequate to enable the product to be effective and accessible.’</p> <p>7.5 Restructure Policy DDH6 (now renumbered as DDH3) as follows: ‘1. To be supported development proposals for new homes in Westbury should:</p>	For clarity and accuracy and to meet Basic Conditions 1 & 3

	<p>a. Ensure the delivery of rented and owner-occupied homes in a tenure-blind mix, design and layout;</p> <p>b. Increase the supply of affordable homes in conformity with adopted Wiltshire Council affordable housing policy;</p> <p>c. Address the specific, local housing needs identified in the Westbury Housing Needs Assessment (2021) or updated evidence of housing need that has been validated by the local planning authority; particular attention should be demonstrated for:</p> <ul style="list-style-type: none"> • smaller dwellings (one, two and three bedrooms); • accessible and adaptable housing that includes two and three bed bungalows and ground floor flats with level access showers/ wet rooms; • supported housing that is designed to provide a high quality of life for local older and disabled people who need to move home but wish to remain within the community in appropriate locations that are within ten minutes easy walk of local facilities and / or a bus stop. <p>2. Support will be given in principle to proposals for community led development of housing and/or community facilities that contribute towards meeting identified housing and community infrastructure needs.'</p>	
8	<p>Amend the section headed "Pre-Application Community Engagement" and the Policy headed "Draft Policy DDH7: Pre-Application Community Engagement" so that they appear distinctly different from the land use content. Retitle these respectively as: 'Statement of Community Engagement' and 'Westbury Community Pre-Application Engagement Protocol'. Provide a hyperlink to the "Protocol" (in like manner to the link provided to the Wiltshire equivalent) which is to be held on the Westbury Town Council website.</p>	<p>For clarity and accuracy and to meet Basic Condition 1</p>
9	<p>9.1 Reference Figure 11 at the end of the first sentence.</p> <p>9.2 From the second paragraph delete: "Developments will set appropriate, challenging targets for modal shift in a travel plan, and demonstrate through ongoing monitoring whether these targets are being met."</p> <p>9.3 In the last sentence of the second paragraph amend "figure" to 'Figures'.</p>	<p>For clarity and accuracy and to meet Basic Condition 1</p>
10	<p>10.1 Within Figure 12 under "Key Areas Requiring Attention":</p> <p>10.1.1 Amend the list and the map to include the full list of 15 as advised by the Qualifying Body in the attachment to their email dated 7th September 2023.</p> <p>10.1.2 In item 2 on the list replace "Dangerous" with 'Constrained'.</p>	<p>For clarity and accuracy and to meet Basic Conditions 1 & 3</p>

	<p>10.2 Within Figure 13 provide a key for the map insert to reference the purple-coloured part of the highway of the Air Quality Management Area (AQMA).</p> <p>10.3 Within Policy TM2:</p> <p>10.3.1 Under sub-heading “1. Impacts” replace paragraphs 2 & 3 as follows: ‘Proportionately to their scale, developments should have particular regard to the need to improve air quality in Westbury and specifically to meeting the objectives of the Air Quality Management Area as identified on figure 13. The cumulative effect in combination with other developments must also be taken into account.’</p> <p>10.3.2 Under sub-heading “2. Improvements” delete paragraph 1 and delete “also” from the second paragraph; replace the final paragraph as follows: ‘Schemes to alleviate the risks identified in Figure 12, or to achieve the designations and opportunities illustrated, will be supported.’</p>	
11	Delete Policy TM3 and its supporting text.	For clarity and accuracy and to meet Basic Condition 1
12	<p>Within Policy TCE1:</p> <p>12.1 Restructure the first paragraph as follows: ‘Insofar as planning permission is required, development proposals that incorporate studios and workshops which facilitate homeworking or creative small businesses will be supported, provided they demonstrate appropriate regard for their impacts on neighbouring properties.’</p> <p>12.2 Add ‘in principle’ at the end of the second paragraph.</p>	For clarity and accuracy and to meet Basic Condition 1
13	<p>13.1 To Figure 15 on page 57 add source references for the Town Centre and Conservation Area boundaries.</p> <p>13.2 Within Policy TCE2:</p> <p>13.2.1 Restructure the first paragraph as follows: ‘Development proposals which arise from, or contribute positively to the implementation of the Westbury Town Centre Vision [add footnote with source reference] will be supported, in particular the following:’</p> <p>13.2.2 In proposal (d) replace “activating” with ‘regenerating’.</p> <p>13.2.3 In the second paragraph omit the “such as” phrases since these may limit the perceived application of the Policy.</p> <p>13.2.4 Add ‘in principle’ at the end of the last paragraph.</p>	For clarity and accuracy and to meet Basic Condition 1

14	<p>14.1 To Figure 16 on page 61 add source references for the Special Landscape Area and Site of Special Scientific Interest boundaries.</p> <p>14.2 Within Policy HL1 delete the first sentence.</p>	For clarity and accuracy and to meet Basic Condition 1
15	<p>15.1 Re-edit the section headed “Local Heritage” to replace references to “Conservation Area Appraisal and Management Plan” and “CAMMP” [sic] or “CAAMP” with ‘Conservation Area Appraisal’.</p> <p>15.2 In Figures 17 & 18 (and also in the Character Statement and Design Guide, page 22), correct the transposition of Grade II and Grade II* Listed Buildings.</p> <p>15.3 In Figure 18 add to the key for the red star: ‘Becks Mill’.</p> <p>15.4 Restructure Policy HL2 as follows: ‘In line with national and Wiltshire Policy, development and repurposing proposals affecting a heritage asset (including but not restricted to any sub-surface archaeological remains) will require special care. Within the Neighbourhood Area the following are amongst the areas and matters requiring particular attention: 1) Westbury Conservation Area (see Figure 17) Proposals must demonstrate appropriate regard for the heritage assets and characteristics detailed in the Westbury Conservation Area Appraisal (Annexe 2). 2) Westbury Leigh Area of Local Heritage (see Figure 18) Proposals should demonstrate appropriate regard for the characteristics that contribute to the significance of the area’s local architectural and historic interest as set out in the Westbury Character Statement and Design Guide (Annexe 3). 3) Local Non-designated Heritage Assets For properties/assets identified in the Locally Valued Non-Designated Heritage Assets Report (Annexe 4), development proposals should demonstrate appropriate regard for the significance of the heritage asset and the elements that contribute to its significance. 4) Re-use of Historic Buildings To ensure the long-term survival of irreplaceable heritage assets, proposals to appropriately repurpose buildings will be supported provided appropriate regard for the significance of the asset is demonstrated.’</p>	For clarity and accuracy and to meet Basic Condition 1
16	<p>Restructure Policy HL3 as follows: ‘Proposals for modifications to buildings in the Conservation Area, or to a Listed Building, should address the advice from Historic England (Energy Efficiency and Historic Buildings: How to Improve Energy Efficiency) [source reference required]. On a case-by- case assessment, some minimised harm/ reversible impacts to the significance of heritage assets may be acceptable when weighed against the public benefit of mitigating and adapting to climate change.’</p>	For clarity and accuracy and to meet Basic Condition 1

17	<p>17.1 Paragraph 8.8: delete “of 10% net gain, including exemptions (see para 267f)”.</p> <p>17.2 Within Policy QL1:</p> <p>17.2.1 In the opening sentence replace “have” with ‘demonstrate’.</p> <p>17.2.2 In element 4 delete “and detailed on page 77”.</p> <p>17.2.3 Delete the last-but-one paragraph.</p> <p>17.2.4 Rephrase the last paragraph as: ‘Proposals are encouraged to provide evidence of meeting the Building with Nature Standard’ [source reference required].</p> <p>17.3 Add to the title of Figure 20: ‘supporting detail for the GBI Corridors is provided on the following page’; on Page 77 replace “figure 21” with ‘on the previous page’.</p>	For clarity and accuracy and to meet Basic Condition 1
18	<p>18.1 Correct the second bullet point of paragraph 8.10 to include the word “particular” exactly as included in NPPF paragraph 102.</p> <p>18.2 Within Policy QL2:</p> <p>18.2.1 Reword paragraph 1 as follows: ‘Local Green Spaces, as shown on figure 21 and detailed in Annexe F, are designated for protection that accords with national policy for the Green Belt.’</p> <p>18.2.2 Reword the second sentence of paragraph 2 as follows: ‘Other than in these circumstances, the loss of Open Space will only be supported where alternative equivalent or better provision has been secured, or an assessment has demonstrated that the Space is surplus to requirements.’</p> <p>18.2.3 Reword paragraph 3 as follows: ‘Proposals for new housing development should include well-designed outdoor private space, and community space appropriate to the scale of the development.’</p> <p>18.3 Amend Figure 21 (including the accompany key table) as follows:</p> <p>18.3.1 Delete spaces LGS4, COS3 (incorrectly shown on the map as COS4) and COS12; redesignate LGS21 as COS; renumber the remaining spaces appropriately and completely, ensuring that the table is consistent with the map.</p> <p>18.3.2 Add to the title for Figure 21: ‘The key to the numbering of spaces is overpage. Also see Annexe F for further details.’</p> <p>18.3.3 Delete from the tabulation on page 80 the incomplete record of “criteria” (leaving to Annexe F to provide the necessary detail); add to the tabulation the key to each COS shown on the map.</p>	For clarity and accuracy and to meet Basic Condition 1

	18.3.4 Ensure that Annexe F includes maps of each space at a scale which allows boundaries to be identified with clarity and accuracy.	
19	Reword element 1 of Policy QL3 as follows: 'Proposals to improve or create new community and sports facilities to serve the Neighbourhood Area, where the need and benefits of the proposed facility are demonstrated, are supported. Where replacement or enhanced facilities are proposed as appropriate mitigation against the loss of any community facility within the Area, they are supported in principle. New facilities should be located where there is a choice of travel options and should be accessible to all members of the community.'	For clarity and accuracy and to meet Basic Condition 1
20	Reword Policy QL4 as follows: 'Proposals for public art that contribute to the creation of places that reflect heritage, culture and/or natural assets of Westbury and that, where possible, form an integral part of the overall vision for a site and its setting, will be supported. Proposals for public art should be informed and developed with regard to Wiltshire Council's Guidance Note "Public Art and Design in the Public Realm (2011)" [source reference required] or any subsequent update.'	For clarity and accuracy and to meet Basic Condition 1
21	21.1 Within the Glossary review the definition of "Zero-carbon home". 21.2 Within the "External References" section review the content to minimise duplication. 21.3 The various Annexes and Appendices should be reviewed in the light of the Recommendations in this report and the particular corrections and clarifications identified in this Report in the section headed "Annexes & Appendices".	For clarity and accuracy