

John Slater Planning Ltd

# Hullavington Neighbourhood Development Plan 2016- 2026

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## **Submission Version**

A Report to Wiltshire Council on the Examination of the Hullavington  
Neighbourhood Development Plan

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## Executive Summary

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

- Showing a single settlement boundary around the village and allocation site
- Including within the description of the allocation, land for the school expansion and the provision of a community car park.
- Removing reference to starter homes and downsizing homes from the criterion related to the size of new homes.
- Removing reference to what documents are required to be submitted with a planning application.
- Removing reference to the need for a transport assessment and a travel plan.

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

## Introduction

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

## The Examiner’s Role

4. I was formally appointed by Wiltshire Council in April 2019, with the agreement of Hullavington Parish Council, to conduct this examination. My role is known as an Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS).
5. In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 40 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant and director of John Slater Planning Ltd. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both Wiltshire Council and Hullavington Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.
6. Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
  - That the plan should proceed to referendum if modified.
  - That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.
7. Furthermore, if I am to conclude that the Plan should proceed to referendum, I need to consider whether the area covered by the referendum should extend beyond the boundaries of the area covered by the Hullavington Neighbourhood Plan area.
  8. In examining the Plan, the Independent Examiner is expected to address the following questions
    - a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
    - b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
    - c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.
  9. I am able to confirm that the Plan does relate only to the development and use of land, covering the area initially designated by Wiltshire Council, for the Hullavington Neighbourhood Plan, on 20<sup>th</sup> April 2016, and as enlarged to include the whole parish on 23<sup>rd</sup> September 2016.
  10. I can also confirm that it does specify the period over which the plan has effect namely the period from 2016 up to 2026.
  11. I can confirm that the plan does not cover any “excluded development”.
  12. There are no other neighbourhood plans covering the area covered by the Plan designation.
  13. Hullavington Parish Council, as a parish council, is a qualifying body under the terms of the legislation.

## **The Examination Process**

14. The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

15. I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.
16. I am satisfied that I am in a position to properly examine the plan without the need for a hearing.
17. I carried out an unaccompanied visit to Hullavington, and the surrounding countryside on Thursday 9<sup>th</sup> May 2019. I was able to walk around and across the allocation site and drive around the village and Wellington Place to familiarise myself with the plan area.

## **The Consultation Process**

18. When the Parish Council agreed to explore neighbourhood planning, it decided that it wanted it be a community led process and set up, in October 2015, a Steering Group, made up of residents, business owners, church leaders as well as the Chair and Clerk to the Parish Council. The Parish Council delegated the management of the neighbourhood plan process to the Steering Group.
19. The Steering Group, as well as using normal consultation avenues, agreed to work with EnAct volunteers to try to engage with sections of the community who would not otherwise have participated in such a process, for example, the service families living in Wellington Place, as well as the elderly residents.
20. The consultation process was launched in early 2016 and the first open day was held in the Village Hall in April 2016 and was attended by 221 people and sought their views on the issues the neighbourhood plan should be addressing. Questionnaire were distributed in October 2016 and a second open day was held in the Village Hall in February 2017, attended by 130 people, where the results of the questionnaire survey were shared, which are also set out in Appendix 13. A Rural Housing Survey was carried out in May 2017 and a third open day was held in December 2017 which looked at various development options. This was followed up by a village vote to decide whether to allocate land for 70 houses, compared to the 50 homes proposed in the emerging local plan which was land next to the school, which was identified from its SHLAA code as Site 690. This vote was based on a turnout of 48%.
21. The Steering Group also shared information on the neighbourhood planning process through the use of posters, information on the website, articles published in the Hullavington News and emails distributed via the village email network.
22. All this activity culminated in the preparation of the Pre - Submission version of the neighbourhood plan, which was then the subject of a six-week consultation, known as the Regulation 14 consultation, which ran from 12<sup>th</sup> June 2018 to 24<sup>th</sup> July 2018. This consultation was with both statutory and non-statutory bodies, as well as the local community who were alerted through distribution of the flyer, six drop in

meetings were held and the Steering Group attended the village fete. The open meetings were attended by 98 parishioners. The responses are fully set out in Sections 5 and 6 of the Consultation Statement and includes the Steering Group's response and the proposed changes to the plan.

23. I am very satisfied that the process has been both open and transparent and that the views of the community have been positively sought and have profoundly influenced the final content of the neighbourhood plan. I particularly commend the attempts to engage with what may ordinarily be hard to reach groups.

## **Regulation 16 Consultation**

24. I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place over a 6-week period, between 25<sup>th</sup> February 2019 and 8<sup>th</sup> April 2019. This consultation was organised by Wiltshire Council, prior to the plan being passed to me for its examination. That stage is known as the Regulation 16 consultation.
25. In total, 12 responses were received, from Natural England, Wessex Water, National Grid, Historic England, Highways England, Network Rail, Environment Agency, Wiltshire Council, St Paul Malmesbury Without Parish Council, and the Pegasus Group, on behalf of Hannick Homes and Developments Ltd and Mr A. Hawker, as well as two local residents.
26. I have carefully read all the correspondence and I will refer to the representations where it is relevant to my considerations and conclusions in respect of specific policies or the plan as a whole.

## **The Basic Conditions**

27. The Neighbourhood Planning Examination process is different to a Local Plan Examination, in that the test is not one of "soundness". The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.
28. The five questions which constitute the basic conditions test, seek to establish: -
- Has the plan had regard to the national policies and advice contained in the guidance issued by the Secretary of State and is it appropriate to make the Plan?
  - Will the making of the Plan contribute to the achievement of sustainable development?

- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Whether the making of the Plan breaches or is otherwise incompatible with EU obligations or human rights legislation?
- Whether the making of the Plan would breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

29. In July 2018 and again in February 2019, the Government issued revisions to the National Planning Policy Framework. However, in accordance with the stipulation of Paragraph 214 of the 2019 NPPF, this examination has been carried out applying the policies in the 2012 version of the Framework, as the plan was submitted prior to the 24<sup>th</sup> January 2019 deadline.

### **Compliance with the Development Plan**

30. To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the adopted Wiltshire Core Strategy.
31. Core Policy 1 sets out a Settlement Strategy which identifies “Large Villages” as “settlements with a limited range of employment, services and facilities and where development will be limited to that needed to help meet the housing needs of the settlement and to improve employment opportunities”. Hullavington is identified as being a “Large Village”.
32. Core Policy 2 is the delivery strategy of the plan and this allocates for the rest of the Chippenham Community Area (outside Chippenham), within which the neighbourhood area lies, an indicative housing requirement of 580 dwellings. It says that within the limits of development, “there will be a presumption in favour of sustainable development in large villages”. The detailed policies for the Chippenham area are set out in Core Policy 10. Core Policy 2 states that sites for development will be identified through Site Allocations Development Plan documents (DPD) and neighbourhood plans. It also says that that the limits of development can be altered through the identification of sites through Site Allocation Development Plan Document (DPD) and neighbourhood plans.
33. Wiltshire Council is currently preparing a Site Allocation DPD and this has now been submitted to the Planning Inspectorate for its examination. That draft plan allocates the site known as The Street at Hullavington in Policy H2.11, for approximately 50 dwellings and 0.2 ha of land for primary school expansion. This is emerging policy, which is clearly relevant to examination of this neighbourhood plan, but is not adopted policy in terms of the plan having to meet the basic conditions. Work has



also commenced on the review of the Core Strategy which will be rolled forward to 2036 but that work is at an early stage.

### **Compliance with European and Human Rights Legislation**

34. Wiltshire Council issued a Screening Statement, in August 2018 which concluded, having consulted with the three statutory consultees, that a full assessment, as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”, would not be required as its view was that the Plan’s effects are unlikely to have significant effects on the environment. In its Regulation 16 comments, Wiltshire Council has confirmed that a review of that opinion is not necessary, in terms of the limited changes now incorporated in the submission version of the plan.
35. The Unitary Council, as competent authority, also issued, in the same report its screening under the Habitat Regulations. This screening assessed the submitted plan and concluded that it would not have any adverse effects upon European protected sites or their qualifying features, and an Appropriate Assessment would not be required.
36. I am satisfied that the basic conditions regarding compliance with European legislation, including the newly introduced basic condition regarding compliance with the Habitat Regulations, are met. I am also content that the plan has no conflict with the Human Rights Act.

### **The Neighbourhood Plan: An Overview**

37. The Hullavington neighbourhood plan has a time horizon of only seven years, up to 2026, which coincides with the end date of the Wiltshire Core Strategy. Whilst this is a short period, it does seem sensible, with the development of the Dyson proposals on the airfield only now getting underway, to be able to keep matters under review.
38. The neighbourhood plan is a very focused document, only proposing three development plan policies, namely a policy to extend the village’s development boundary to incorporate the allocation site, a policy for the allocation site which sets criteria for its development and a similar policy establishing criteria for residential development elsewhere in the plan area. These policies are a response to a clear vision statement which is centred on the village retaining its vibrancy, particularly wanting to maintain its thriving local school (which could be threatened by an ageing population and the potential loss of children from the local service family accommodation) and the desire to ensure that there is a choice of suitably sized high-quality homes that will reflect the character of the village.

39. Work on identifying housing sites for the village had commenced in 2012, with an initial survey of SHLAA sites, carried out by Wiltshire Council planning officers. By the time work on the neighbourhood plan commenced, there were six potential sites for the Steering Group to consider, along with a seventh introduced through the neighbourhood plan's "call for sites".
40. It was clear from the early consultation responses, that the community's preferred option was the land north-east of the school, known as Site 690. However, a further robust site assessment was carried out, on behalf of the Steering Group by AECOM, which along with Group's discussions held with landowners, had identified three potential deliverable sites, including the potential enlargement of Site 690 on land to the north. At the same time, Wiltshire Council was conducting its own site assessment and carrying out other appraisals and had identified Site 690 as its preferred allocation site for the village, in the emerging Site Allocation DPD.
41. I really must commend the Steering Group for its positive approach to development in the village. It recognised that, by contemplating higher levels of residential development, above that which was seemingly considered acceptable by the community, from the initial questionnaire responses, and more housing than being advocated by the Wiltshire Council in its emerging DPD, this offered the village the chance to secure additional community benefits, by providing much-needed green spaces and accessible playgrounds plus the school's expansion, including a new community car park which would help resolve issues of school parking.
42. This is entirely in line with the government's aspirations set out in the NPPF when it recognises that neighbourhood plans can promote higher levels of housing development than set out in the local plan. Hullavington Neighbourhood Plan is a good example of positive planning and it is clear that this approach has the support of the majority of the residents who "voted" for the higher allocation with a majority of 55% compared to 45% supporting the level set out in the local plan.
43. I have only had to recommend a small number of modifications to ensure the policy meets the basic conditions. These are primarily to reflect the Secretary of State advice.
44. My recommendations have concentrated on the wording of the actual policies against which planning applications will be considered. It is beyond my remit as examiner, to comprehensively recommend editorial changes to the supporting text. These changes are likely as a result of my recommendations, which can be agreed between the Local Planning Authority and the Steering Group so that the Referendum Version of the plan reads as a coherent planning document. It is also an opportunity to clarify other misinterpretations as to the planning status of the emerging DPD and other matters raised by the local planning authority.

## The Neighbourhood Development Plan Policies

### Policy 1: Settlement Boundary

45. The proposal, as set out in Figure 15, is that the settlement boundary should follow the settlement boundary as proposed by Wiltshire Council on 31st July 2018, which is shown on the plan edge in green. It is further proposed that the settlement boundary should also include the full extent of the allocation site which is edged in red on the plan. I consider that is an entirely reasonable response, otherwise once built, any development taking place on the allocation site, once implemented, would have to be judged against countryside policies in the local plan, rather than as part of the built-up area of the village. I do not consider that it is necessary for the final version of the plan to differentiate between the boundary in green and the allocation site boundary in red. The settlement boundary should run around the perimeter of the village (as per the green line), plus the allocation site (in red) and be shown in a single colour, with an amended key. The plan in Figure 15 should be considerably enlarged, so that it can be used to identify with confidence the location of individual properties.
46. There is an issue to be addressed if the plan as modified is “made” and becomes part of the development plan. The issue is the relationship of the neighbourhood plan to the Site Allocation DPD, which will then become the latest plan adopted, whose provisions could be given precedence, in terms of decision making, as it would be adopted after the neighbourhood plan. In order for wishes of the local community to be respected, Wiltshire Council may wish to bring the up to date position regarding Hullavington’s housing allocation to the attention of the Local Plan Inspector who can consider whether he wishes to propose a modification either to remove the allocation from the DPD (as it will already have allocated in the development plan) or at least to ensure consistency between the two documents. I do not need to make a formal recommendation as it does not relate to the basic conditions but this is a matter that Wiltshire Council needs to come to a considered view, especially as it would be promoting a smaller site, delivering 20 less dwellings without necessarily the community benefits.
47. I have a minor recommendation to the second paragraph so as to avoid confusion. whereby I propose to refer to “other relevant policies in the development plan” as there is no document with the status of the *local* development plan.
48. In terms of the policy wording for development outside the settlement area, the wording of the first bullet point could be misinterpreted by the use of “such that” to infer that appropriate uses the countryside will have no detrimental impact on landscape, biodiversity or infrastructure. Matters covering these three issues could be impacted by development inside or outside settlement boundaries and are already covered by development plan policy.
49. Beyond these concerns, I am satisfied that the policy meets the basic conditions.

*Recommendations*

***Amend Fig 15 to show the settlement boundary as a single line around the boundary to include the area proposed by the Site Allocation DPD but extended to include the allocation site, shown in a single colour and be enlarged to a size to be easily read, with an amended key.***

***At the end of paragraph 2, delete “Local”***

***In the first bullet point delete all text after “countryside”***

**Policy 2: Allocation and Delivery of Site 690 for Development**

50. This policy seeks to deliver the major housing allocation of the neighbourhood plan. Essentially the proposal extends the allocation set out in the draft Wiltshire Housing Site Allocation DPD, which allocates just the field immediately to the northeast of the school for the “development of approximately 50 dwellings and 0.2 ha of land for primary school expansion” to the land on the north of the hedge line and adds an additional 20 homes to the allocation. This policy does not include the reference to the primary school expansion in the allocation, but it includes it as a “proviso”, although the supporting text in paragraph 5.51 refers to the fact that “It is also essential that the school is properly considered throughout the process”. The site the school expansion and the Community car park is shown in Fig 22.
51. As this allocation covers the whole of the allocation site, not just the extension beyond the area shown on the draft local plan, I consider that it is important that the allocation for school expansion should equally be included within the neighbourhood plan rather than rely upon the draft plan. The Site Allocation DPD is only emerging policy and I consider that merely to allocate land for housing with the school already at capacity would fail to deliver the necessary educational infrastructure, required as a result of the development hereby proposed. The NPPF places importance on plans taking a proactive approach to ensuring school places are available to meet the needs of existing and new communities, by giving “great weight to the need to create, expand or alter schools”. Part of the reason the plan is proposing an enlarged housing allocation, is to deliver the community car park and I believe that should also be included in the allocation to ensure that it is delivered as part of the package.
52. I therefore propose to amend the policy to include the allocation both the residential development and also the allocation of land for the school expansion in the same way that the draft DPD does.
53. In terms of the detailed drafting of the policy, the first paragraph is a description of the site rather than being an expression of planning policy capable of being used to determine a planning application. It can be covered by the supporting text. I will suggest the second sentence is enlarged to refer to the area shown in Figure 23, as well as including reference to the school land.

54. In terms of specific proposal criteria, I have a number of detailed comments. In criterion 2, this repeats the requirement that the development delivers approximately 70 homes, which is set out in what will now be the first sentence of the policy. The third criterion refers to *downsizing homes*. I am not aware, unlike starter homes, of a definition of what a *downsizing home* is. I consider that the matter is already covered by the reference to the size of the dwellings being sought. I will also remove reference to *starter homes* as these are included now within the definition of affordable housing, according to the 2019 version of the NPPF and can be covered by the previous criterion.
55. In terms of use of traditional materials in criterion 4, it will be helpful to clarify that this refers to their use on the exterior of building, so as not to prevent the use of innovative building techniques or imposes expectations regarding the internal materials.
56. In terms of criteria 5 and 6, I fear their inclusion is not in accordance with Secretary of State policy, with regard to what technical requirements can be imposed by a neighbourhood plan policy, as opposed to a local plan. In a Written Statement to the House of Commons, dated 25 March 2015 the Secretary of State stated that “neighbourhood plans should not set any additional technical standards or requirements relating to the construction, internal layout or performance of new dwellings.” Energy performance policies can be set in local plans. In acknowledging the plan’s aspirations rather than requiring opportunities to be maximised, I will recommend the wording to be modified to “encourage”. That means an application could not be refused if it did not meet the aspiration.
57. A neighbourhood plan policy cannot impose a specific requirement as to what document must accompany the planning application. That is a matter that is set out by the Wiltshire local validation checklist. I will recommend the final part of the criterion 10 be removed after “Fig 23” I understand that the development on greenfield sites, planning applications already have to submit an ecological assessment. I will also be recommending a revised wording to criterion 15 dealing with odour assessments for the same reason.
58. I am aware that there is on the site, the presence of an important protected species, the Barbary carpet moth. I understand its habitat is likely to be the hedgerows which need to be retained and protected. I will make the criteria specific to the Barbary carpet moth, by removing reference to “a Schedule 5 species”.
59. I am concerned that the policy includes a requirement to submit a transport assessment with any planning application, as the Wiltshire validation requirements only require the submission of an assessment on schemes greater than 100 dwellings. I do not consider that a scheme of this size in such a location should be required to submit a travel plan and note that is not a requirement of the smaller 50-unit scheme in the Site Allocation DPD.

**Recommendations**

**Delete the first paragraph**

**In the second paragraph, after “site” insert “as shown on Figure 23” and after “70 homes” insert “,0.2 ha for school expansion and the provision of a community car park”**

**In criterion 2, delete “approximately 70 homes, including”**

**In criterion 3, delete “(including both starter and downsizing homes)”**

**In criterion 4, insert “external” between “traditional” and “materials”**

**In criteria 5 and 6, replace “maximise opportunities for” with “encourages”**

**In criterion 10, delete all text after “Fig23”.**

**In the second sentence to criterion 13, replace “a Schedule 5 species” and parenthesis around Barberry Carpet Moth” with “the”**

**In criterion 15, delete “as part of their planning application,”**

**In criterion 19, delete all text after “pedestrian safety”**

**Delete criterion 20**

**Policy 3: Planning applications in the Parish apart from site 690**

60. There are only two minor matters that require addressing so as to be consistent with my recommendations for Policy 2. Otherwise I believe the policy meets the basic conditions.

**Recommendations**

**In criterion 2, insert “external” between “traditional” and “materials”**

**In criterion 16, remove all text after “safety”.**

**The Referendum Area**

61. If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance, I can confirm that the area of the Hullavington Neighbourhood Plan as designated by Wiltshire Council on 20<sup>th</sup> April 2016, and subsequently enlarged, to include the whole parish on 23<sup>rd</sup> September 2016, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

## Summary

62. I must congratulate Hullavington Parish Council for preparing a locally distinct and very focussed neighbourhood plan, which seeks to deliver on the expressed priorities of the residents, in terms of where new housing is to be located and how it is to be designed within the parish. It is seeking to proactively grasp the opportunity so as to utilise development to help meet the community's aspirations, in terms of open space and school car parking as well as meeting the future needs of the school. The plan aspires to deliver more than a normal housing estate. The plan will provide a sound basis for dealing with future planning applications for housing in the village in the next few years in order to maintain the vibrancy of the village.
63. To conclude, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and that it is appropriate, if successful at referendum, that the Plan, as amended, be made.
64. **I am therefore delighted to recommend to Wiltshire Council that the Hullavington Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.**

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7<sup>th</sup> June 2019