

Working together



South Hams District Council

Malborough Neighbourhood Plan Regulation 16 consultation

13/04/18

The Malborough Neighbourhood Plan (the plan) was submitted to South Hams District Council on 20th February 2018. The Council was satisfied that the submission draft and accompanying documents complied with all the relevant statutory requirements

The plan was publicised in accordance with Regulation 16 of the Neighbourhood Planning (General) Regulations and representations invited between Tuesday 20th February 2018 and Tuesday 3rd April 2018.

South Hams District Council made a full response to the Regulation 14 consultation carried out by the Qualifying Body in respect of the Malborough Neighbourhood Plan. This document sets out South Hams District Council's response to the Regulation 16 version of the plan, focussing on concerns that remain. The Regulation 16 consultation coincided with the Examination in Public of the Plymouth and South West Devon Joint Local Plan, which absorbed a significant amount of staff time and effort. This in turn has led to the late submission of the SHDC Regulation 16 response to the draft Malborough Neighbourhood Plan. It is acknowledged that late representations do not have to be taken into consideration by the examiner of the neighbourhood plan, although we hope that the mitigating circumstances and the constructive input of the Local Planning Authority provide sufficient justification for this late submission.

A significant amount of work has gone into the preparation of the plan, and the community are to be congratulated in the document that they have produced. In particular, those responsible for writing the plan are to be applauded for accepting the responsibility of identifying and allocating development sites, not least because the village and parish fall within the South Devon AONB, and the group have had to consider a lot of technical aspects of the planning process.

As part of the plan writing process some concern has previously been voiced to the working group about identifying specific rural hamlets as locations where 'individual dwellings, small infill and windfall sites' are considered appropriate. Such hamlets are considered as unsustainable locations for new development, and are some way detached and remote for identified sustainable villages in adopted and emerging Local Plan policy.

These hamlets continue to be identified in policy 23 'Siting of Development' and as such SHDC feel that the NP as submitted for examination does not meet the basic conditions required for a Neighbourhood Plan to proceed to referendum. Recommendations are included as to how SHDC

feel that the plan could be amended, although ultimately the recommendations of the examiner will shape the future of the plan.

Other than policy 23 SHDC broadly supports the Marlborough Neighbourhood Plan. In order to assist in the efficient consideration of the plan, this document only identified potential improvements that we feel can be made to the draft plan, either in the name of soundness or effectiveness. Please assume for the purposes of this exercise that policies or text not referenced below are supported by the Council.

Policy/Text	Comments
<p>4. Principal Residence Restriction:</p> <p>☑ New open market housing, excluding replacement dwellings, will only be supported where there is a restriction to ensure its occupancy as a Principal Residence. Principal Residences are defined as those occupied as the residents' sole or main residence, where the residents spend the majority of their time when not working away from home. The condition or obligation on new open market homes will require that they are occupied only as the primary (principal) residence of those persons entitled to occupy them</p> <p>☑ New unrestricted second homes will not be supported at any time and,</p> <p>☑ Occupiers of homes with a Principal Residence condition will be required to keep proof that they are meeting the obligation or condition.</p>	<p>Much of the reasoned justification for this policy identifies issues in the adjoining parishes. Whilst some of the adverse impacts of having too many second homes are well articulated, it is for the neighbourhood plans of Salcombe, South Huish and Thurlestone to adopt policies that address second home ownership issues in each area. It is not considered that a policy in the MNP can use evidence from other NP areas to justify a principal residence policy. 'Unrestricted second homes' may otherwise be known as an open market home, as at the point of construction it is unlikely that the end buyer/user will be known. If this policy remains it is suggested that this criteria is removed.</p> <p>A land-use planning document may be over-reaching its remit by stipulating administrative responsibilities of home owners within the plan area. This criteria may need to be more explicit, or be removed.</p>
<p>7 High quality design</p> <p>..."</p> <p>Given all development is within an AONB new proposals should retain and maximise all neighbours' views and the views of existing houses"</p>	<p>It is not considered that simply by being in an AONB is justification for every house to have every view protected. The planning system does not seek to preserve views, but to ensure that sufficient light of</p>

	<p>existing dwellings is maintained. The adopted and emerging Local Plans include a general amenity policy to protect against loss of light, and as such it is recommended that this requirement in removed.</p>
<p>7 High quality design</p> <p>...”There is an absolute limit on all new dwellings having a maximum of 2 floors. “</p>	<p>This requirement would seemingly preclude any houses having a basement, or making use of roofspace for habitable rooms? The requirement seems to be overly restrictive, and the intention of the policy, to maintain a consistent roofline with the existing built form of the village could be better expressed.</p>
<p>7 High quality design</p> <p>...”ASPIRATIONS re. High Quality Design: “</p>	<p>The intention of this section is clear, but should not be written within a policy, as it is not measurable or enforceable.</p>
<p>9 Supporting community housing: Community Housing MAY be permitted adjoining the existing development boundary of Malborough Village on sites where development would not otherwise be permitted providing the development meets or exceeds all policies included in this Plan and where:</p> <ul style="list-style-type: none"> ☐ the development provides collective land ownership and shared management responsibility ☐ the land is held in trust as a community asset in perpetuity and, ☐ housing costs are made affordable by reference to capital costs, or rent, being no more than 80% (or as subsequently determined in the Joint Local Plan) of open market value and such discount is protected through succession. 	<p>Community-led housing should not be restricted to CLTs, and as such it is not considered sufficiently flexible to require community-led housing to be delivered and managed through a trust. Individual self-build plots can make an equally valuable contribution to meeting local housing needs, and can still be restricted to being accessible by local people and suppressed against open market values, but the land doesn’t need to be held in trust as a community asset to realise these benefits. Suggest removing these requirements.</p>
<p>16 Custom & Self Build (C&SB) GREAT PARK (part of):</p>	<p>This site should be identified as being allocated for community-led housing, but it</p>

<p>This Plan allocates GREAT PARK (part of, as shown on the map below) as an EXCEPTION SITE providing land suitable for affordable housing that will be secured in perpetuity.</p>	<p>cannot be labelled as an 'exception' to policy, because it is the subject of a policy. Propose rewording the policy to identify that only housing delivered by a community-led mechanism will be supported.</p>
<p>17 Adapting to climate change : new development and consequential improvements policy (Residential)</p> <p>..."in particular developers must demonstrate in proposals how design, construction and operation have sought to:</p> <ul style="list-style-type: none"> o reduce the use of fossil fuels o promote the efficient use of natural resources, the re-use and recycling of resources, and the production and consumption of renewable energy o adopt and facilitate the flexible development of low and zero carbon energy through a range of technologies o link the provision of low and zero carbon energy infrastructure in new developments to existing buildings and, o adopt best practice in sustainable drainage. 	<p>A threshold may need to be identified, as these requirements may be considered too onerous for applications of single dwellings.</p>
<p>23 Siting of Development:</p> <p>..."Furthermore, development in the open countryside of Malborough outside the existing settlement boundaries (such settlements to include our rural hamlets) will not be permitted unless specifically provided for by other policies in this Neighbourhood Plan and there is no significant detrimental effect on the character of the countryside by virtue of the proposed development's siting, size and prominence in the landscape. ie: this Neighbourhood Plan provides for a presumption against development in the open countryside rather than the presumption in favour of sustainable development. These rural hamlets are named as: Soar, Bolberry, Combe, Rew, Collaton and Ilton."</p>	<p>It is not up to a neighbourhood plan to decide where the presumption in favour of sustainable development will, and won't apply. Paragraph 14 footnote 9 firmly establishes that within designated landscapes the presumption in favour does not apply. The adopted and emerging local plans that cover Malborough Parish also clearly identify that areas outside identified settlement boundaries should be considered as 'countryside', and permitting development in these locations should only be done so as an exception to adopted and emerging policy. As such, to identify hamlets within the countryside, and AONB, as being suitable for new housing development is contrary to both national and</p>

	<p>local policy, and as such does not meet the basic conditions. The hamlets identified in policy are remote from existing services and facilities and should not be identified in policy text as location where new housing could be built. Affordable housing that meets local housing need could be delivered on suitable sites outside settlement boundaries subject to meeting the requirements of adopted and emerging rural exceptions policies. A proposal that may be considered as an exception to policy should be considered on its own merits, and to identify a number of hamlets that are considered appropriate for this type of housing is not robustly justified or consistent with national policy. As such the LPA proposes that this policy is deleted.</p>
<p>27 Local Green Space designations</p>	<p>The identification of LGS in NPs is to be encouraged, but there does not appear to be sufficient justification to support the designation of these pieces of land. Each site should specify the nature of local significance, with an appraisal showing how this significance has been identified/measured. Without this justification it is difficult to support the allocation of the green spaces identified.</p>
<p>28 Protection of green spaces: development that results in the loss of green spaces or that results in any harm to their character, setting, accessibility, appearance, general quality or amenity value would only be permitted in very special circumstances, for example, if it is essential to meet specific necessary utility infrastructure needs and no alternative feasible site is available and,</p>	<p>This policy wording seems to be more appropriately used in relation to policy 27. As the NPPF states in paragraph 76, only LGS that have been adequately justified can be protected against development except for in very special</p>

	<p>circumstances, but this should not be applied to <i>all</i> green spaces. This policy should be deleted with the wording inserted into policy 27.</p>
<p>30</p> <p>Community Benefit:</p> <p>...”these projects should be at the discretion of the Parish and these monies may be spent on any named infrastructure project where there is evidenced and prioritized need. ie: the monies should NOT be ring fenced for outdoor spaces and sport facilities. “</p>	<p>Contributions collected for OSSR by the LPA are specifically in relation to an evidence base that follows Sport England guidelines. It is not considered appropriate for a NP to restrict the ability of the LPA to spend developer contributions on facilities that have been identified as needed.</p>
<p>32 Existing Employment Sites: Existing employment sites should remain in employment use. They should be preserved for the continuing prosperity of the community, particularly where it will not interfere with residential amenity.</p>	<p>This policy is considered overly restrictive. Employment sites are by their nature private enterprises and not community facilities. If an owner of an employment site wants to change the use and submits a policy compliant proposal there is no reason why the change of use should be resisted. Propose deleting this requirement.</p>
<p>34 Change of Use (agricultural): The Plan acknowledges that Permitted Development Rights allow agricultural buildings to be put to a flexible commercial use. However this Plan advises that proposals that seek to effect a change of use from agricultural to storage (Class B8) will be resisted as these remove future potential employment land from the pool and have an adverse effect on the community caused by increased traffic volumes and access issues.</p>	<p>Although the plan is clear about what it is intending to achieve, it is not within the remit of a NP to limit or resist changes of use that are allowed under permitted development rights. This policy should be deleted.</p>
<p>37 Tourism: Proposals that bring forward land for use as high-quality small touring caravan and camping sites within the Parish will be encouraged as both these activities can help increase tourism revenue subject to these meeting the requirements of this Plan, as well as other relevant national and local Planning policies (where ‘small’ in this instance is defined as up to 20 pitches and ‘high quality’ is defined as family run, luxury sites).</p>	<p>Adopted AONB Management Plan and LPA planning policy seeks to restrict the growth of new camping and caravanning sites within the AONB, and as such this policy does not appear to be in conformity with either.</p>

	<p>Also, undeveloped coast policy requires any development to justify a need for a coastal location, and it is hard to envisage how policy 37 can meet the requirements of national and local planning policy. Even touring sites are likely to require associated built facilities such as toilet blocks and washing facilities. It is not clear how a camp site being family-run would make a proposal more acceptable in planning terms, nor is it clear for a decision maker how to determine if a proposal is 'luxury' and why such a proposal should be considered more favourably than an alternative proposal. This policy is recommended for deletion.</p>
<p>38 Conversely, the conversion of touring sites into more permanent sites – for lodges or additional static caravans, is not encouraged by the Plan and proposals for such are likely to be resisted as comprising “development creep”.</p>	<p>There are already locally adopted and emerging policies regarding the expansion/extension of campsites within the AONB, and as such this policy is not necessary.</p>