

Newton and Noss Neighbourhood Development Plan

Independent Examiner's Report

April 2018

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Summary

I have been appointed by South Hams District Council to carry out an independent examination of the Newton and Noss Neighbourhood Plan.

The examination was carried out in February 2018 and was undertaken by considering all the documents submitted to me, including the written representations. I visited the Neighbourhood Plan area on 8 February 2018.

The plan is based on a very well researched evidence, extensive engagement with all sectors of the local community and provides a distinct set of policies, relevant to the needs of local people.

Subject to a number of modifications set out in this report, I conclude that the Newton and Noss Neighbourhood Plan meets the Basic Conditions and I am pleased to recommend that it should proceed to referendum.

I recommend that the referendum should be confined to the Neighbourhood Plan area.

Barbara Maksymiw

Independent Examiner

6 April 2018

1. Introduction

1. Neighbourhood planning is a relatively new process, introduced by the Localism Act 2011, which enables local communities to develop planning policies to guide development in their area and help to shape the places where they live and work.

2. The parish of Newton and Noss is located in the southern part of South Hams District in Devon and the entire parish is within the South Devon Area of Outstanding Natural Beauty (AONB). The two main settlements are Newton Ferrers and Noss Mayo, situated on the River Yealm, along with smaller settlements and hamlets scattered through the more rural parts of the parish. Originally a farming and fishing community, the parish faces a number of challenges including potential growth as the villages are attractive locations for commuters to Plymouth, retirees and second home owners.

3. The purpose of this report is to assess whether the Newton and Noss Neighbourhood Plan complies with the relevant legislation and meets the Basic Conditions, which such plans are required to meet. Where necessary, the report makes recommendations about changes or modifications to the plan to ensure that it meets the legislative requirements.

4. The report also makes a recommendation about whether the Neighbourhood Plan should proceed to the referendum stage. If there is a positive recommendation at referendum, the Neighbourhood Plan can be “made” by South Hams District Council and so become part of the wider development plan and then used by South Hams District Council to determine planning applications in the plan area.

2. Appointment of the independent examiner

5. I have been appointed by South Hams District Council with the agreement of Newton and Noss Parish Council to carry out this independent examination. The Neighbourhood Planning Independent Referral Service (NPIERS) has facilitated my appointment. I am a chartered town planner with extensive planning experience in local government and therefore have the appropriate qualifications and experience to carry out this examination. I am independent of the qualifying body and have no land interest in the area that might be affected by the plan.

3. The role of the independent examiner

6. The role of the independent examiner is to ensure that the submitted Neighbourhood Plan meets the Basic Conditions together with a number of legal requirements.

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

- the policies in the plan related to the development and use of land for a designated neighbourhood area; and
- the policies in the plan meets the requirements of Section 38 of the Planning and Compulsory Purchase Act (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area); and
- the plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body

8. I must also consider whether the Neighbourhood Development Plan meets the Basic Conditions set out in Schedule 4B of the Town and Country Planning Act 1990 (as amended). A plan meets the basic conditions² if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- the making of the plan contributes to the achievement of sustainable development
- the making of the neighbourhood plan is in general conformity with the strategic policies of the development plan for the area
- the making of the neighbourhood plan does not breach, and is otherwise compatible with European Union (EU) obligations

9. Regulations 32 and 33 of the Neighbourhood Planning Regulations 2012 (as amended) set out two additional basic conditions. These are:

- the making of the neighbourhood plan is not likely to have significant effects on a European

¹ Set out in paragraph 8(1) of Schedule 4B of the Town and Country Planning Act (as amended)

² Set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

site ³ or a European offshore marine site ⁴ either alone or in combination with other plans or projects and

- having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this does not apply to this examination as it is not about a neighbourhood development order).

10. As independent examiner, having examined the plan, I am required to make one of the following recommendations:

- that the plan as submitted can proceed to a referendum; or
- that the plan with recommended modifications can proceed to referendum; or
- that the plan does not meet the necessary legal requirements and cannot proceed to referendum

11. The independent examiner can only recommend modifications to ensure that the Neighbourhood Development Plan meets the Basic Conditions and other legislative requirements, or for the purpose of correcting errors.

12. If the plan can proceed to referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

13. South Hams District Council will consider the examiner's report and decide whether it is satisfied with the examiner's recommendations and will publicise its decision on whether the plan will be subject to referendum, with or without modifications. If a referendum is held and results in more than half of those voting in favour of the plan, the Council must "make" the neighbourhood plan a part of its development plan. The plan then becomes part of the development plan for the area and is a statutory consideration in guiding future development and determining planning applications in the area.

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats &c) Regulations 2007

4. Compliance with matters other than the basic conditions

14. Newton and Noss Parish Council started the process of preparing a neighbourhood plan in 2013 and agreed to proceed with a plan in February 2014. A formal submission was made to South Hams District Council to designate the parish as a neighbourhood area in May 2014. On 5 June 2014, South Hams District Council designated the parish of Newton and Noss as a Neighbourhood Area in accordance with the Neighbourhood Planning (General) Regulations 2012. The designated area covers the parish of Newton and Noss and does not cover any other neighbourhood area and the qualifying body is Newton and Noss Parish Council. Work on the plan was initiated by the River Yealm District Association and a formal steering group was set up in spring 2015 and this group has steered the rest of the plan preparation process, supported by a number of topic specific working groups and an independent planning consultant.

15. I am satisfied that the Neighbourhood Plan includes policies that relate to the development and use of land and does not include provision for any excluded development. The plan period to which it relates is specified as 2017-2034, which aligns with the emerging Plymouth and South West Devon Joint Local Plan which is currently at the examination hearing stage.

16. The Newton and Noss Neighbourhood Plan therefore meets the requirements set out in para 7 above.

5. The examination process

17. The documents which I considered during the course of the examination are listed in Appendix 1.

18. The general rule⁵ is that an examination is undertaken by the consideration of written representations only. Having considered all the information before me, including the representations made to the submitted plan (the Regulation 16 responses), I was satisfied that the Newton and Noss Neighbourhood Plan could be examined without the need for a public hearing.

19. During the course of the examination it was necessary to clarify a small number of factual matters with South Hams District Council. A prompt and helpful response was received to my requests and I am

⁵ PPG para 004 ref id 41-004-20140306

satisfied that I had all the information I required to carry out the examination.

20. As part of the Neighbourhood Plan Examination process, it is important for the examiner to understand the context of the neighbourhood plan in the wider area and its overall character, as these shape the issues and policies set out in the plan. I therefore made an unaccompanied site visit to the area on 8 February 2018.

21. On 5th March, nearing the end of my examination, an updated version of the National Planning Policy Framework was published for consultation. As this is not yet the final version of the NPPF and there may therefore be subsequent changes in the final document, I have not taken it into account in my consideration of the Newton and Noss NP.

6. Consultation

Consultation process

22. Effective consultation and engagement with the local community is an essential component of a successful neighbourhood plan, bringing a sense of public ownership to its proposals and helping to achieve consensus. The policies set out in the Neighbourhood Plan will be used as the basis for planning decisions – both on local planning and on planning applications – and, as such, legislation requires neighbourhood plans to be supported by public consultation.

23. In line with the Neighbourhood Planning (General) Regulations 2012⁶, the Steering Group, has prepared a Statement of Consultation for the Neighbourhood Plan (NP) which sets out how the group approached public consultation, who was consulted and the outcomes.

24. Initial discussion about the viability and desirability of undertaking a Neighbourhood Plan took place in November 2013 and the results of a Scoping Study were presented by the River Yealm and District Association (RYDA) to the Parish Council in February 2014, leading to the application to designate the Neighbourhood Plan area in May 2014. Initial e-mail contact with the community and yacht club was made by the RYDA that summer, along with a public meeting, attended by over 50 local people. The plan has been led by a Steering Group with the support of a number of Working Groups, a Working Group coordinator and a local planning consultant. There is extensive supporting evidence which is very well

⁶ Regulation 15 of the Neighbourhood Planning (General) Regulations 2012

documented and accessible on the Neighbourhood Plan website. In particular, it demonstrates very clearly how the plan has evolved and how it responds to the concerns of the whole community.

25. A dedicated website for the plan was launched in May 2015, followed by the formation of the Steering Group and a series of working groups, each working on a particular plan theme, was established during 2015/16. Considerable effort has been made to gather local evidence, for example through a Housing Needs Study, a Second Homes Survey, a Health and Wellbeing questionnaire, a Green Space questionnaire and a school bus survey. The Communications Methods and publicity section of the Consultation Statement explains how the Steering Group tried to ensure that as many people and all parts of the community were informed and able to take part in the NP preparation process. The groups approach to engaging with primary school age children and their parents, young adults through the Bangers and Beer event and the local sailing community are to be particularly commended.

26. The first formal consultation on the Pre-Submission Draft Neighbourhood Plan followed between 11 June and 21 July 2017, subsequently extended to 4 August, due to the summer holiday period.

27. It is clear from the Consultation Statement that the Steering Group has gone to considerable effort to engage as widely as possible with the community and to keep people informed as the plan progressed. This consultation process has helped to develop the vision for the plan and ensure that the vision and objectives on pages 8 and 9 of the NP have been very clearly shaped by the views and priorities of the community. The vision for the plan, in order of importance, is:

- 1. Being a Devon waterside village that retains its local character and heritage*
- 2. Being a place that supports its local shops, businesses and services and ensures there is adequate infrastructure and accessibility for current and future needs*
- 3. Offering a balanced range of housing types and tenures: eg rented, open market affordable rented and affordable open market*
- 4. Being a place that protects its environment, views, ecology and landscape*
- 5. Being a strong inclusive community that has lots to do, with clubs, societies, activities and leisure opportunities*

28. The representations made as a result of this consultation are set out in Appendices A2(ii)-(iv) of the

Consultation Statement. The Reg 14 version of the plan was modified as a result of the outcome of consultation and the full tracked changes are included in Appendix A2(v).

29. The Submission version of the NP was prepared in early autumn 2017 and the Regulation 16 consultation was carried out by South Hams District Council between 9 November and 21 December 2017.

Representations received

30. Preparing the Neighbourhood Development Plan has involved two statutory six-week periods of public consultation. The first, on the Pre-Submission Regulation 14 Draft Plan, took place between 11 June and 21 July 2017, subsequently extended to 4 August. In all, 113 representations were received.

31. The second consultation on the Submission Draft plan was managed by South Hams District Council and took place between 9 November and 21 December 2017. This generated 7 responses. A further representation from South Hams District Council, was sent to me on 6 February. This had been omitted from the original representation and the Council felt that the points raised needed to be addressed. In these circumstances, I considered the additional representation from the Council as part of my examination.

32. Occasionally in this report I refer to representations and identify the organisation making that particular comment. However, I have not referred to every representation in my report. Nonetheless, I can assure everyone that each comment made has been looked at and carefully considered.

33. From the evidence in front of me, it is apparent that the Newton and Noss NP has been subject to extensive community engagement involving much time and effort by the Steering Group, the various Working Groups and committed residents and volunteers. They are to be congratulated for all their sustained efforts and achievements and for producing an extremely well researched and well-presented Neighbourhood Plan. I am therefore satisfied that the consultation process which has been followed complies with the requirements of the Regulations.

7. Compliance with the basic conditions

34. In my role as independent examiner I must assess whether the Plan meets the Basic Conditions⁷ set out in the Regulations as described in para 12 above.

35. I have considered the Newton and Noss Neighbourhood Plan Basic Conditions Statement (October 2017) produced by the Steering Group, and other supporting documentation to assist my assessment which is set out below.

National Policy

36. National planning policy is set out in the National Planning Policy Framework (NPPF) and in the supporting Planning Practice Guidance (PPG). At the heart of the planning system is a presumption in favour of sustainable development, which applies to all levels of plan making. For neighbourhood plans, this means that neighbourhood plans should support the strategic development needs set out in Local Plans and plan positively to shape local development. Included in the twelve core principles of the NPPF⁸ is a requirement for neighbourhood plans which provide a practical framework within which decisions on planning applications can be made in a confident and consistent manner. Policies also should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.

37. Appendix 2 of the Basic Conditions Statement sets out a straightforward assessment of how each of the policies in the NP addresses the core planning principles of the NPPF and PPG. The NP therefore satisfies the basic condition that it has regard to national policies and advice.

Sustainable development

38. The qualifying body has to demonstrate how a neighbourhood plan contributes to the achievement of sustainable development as set out in the NPPF⁹.

39. Section 9 of the Basic Conditions Statement briefly lists the NP policies which address sustainable development. When considered alongside the assessment provided in Appendix 2, which also assesses

⁷ Para 8(2) of Schedule 4B of the Town and Country Planning Act (as amended)

⁸ NPPF para 16 and 17

⁹ NPPF para 18-219

the plan's compliance with the NPPF and strategic policies, I conclude that this requirement is met.

Development Plan

40. The current development plan for the South Hams District Council area is the South Hams Core Strategy which was adopted in 2006, Affordable Housing DPD (2008), Development Policies DPD (2010) and a number of Site Allocations DPD's, including one for the Rural Areas. A number of policies are also saved from the South Hams Local Plan which was adopted in 1996.

41. Although for the purposes of a neighbourhood plan examination, these policies are the relevant ones to consider in terms of the strategic planning context, these plans and policies are now dated and will soon be replaced by the Plymouth and South West Devon Joint Local Plan (JLP). This plan is being prepared jointly by South Hams District Council, Plymouth City Council and West Devon Borough Council and was submitted to the Secretary of State in July 2017. Examination hearing sessions are currently underway and are expected to close in mid-March 2018. I note that the Councils have proposed some modifications to the Submitted version of the Joint Local Plan (JLP) for consideration by the Inspectors conducting the Local Plan Inquiry but there is no certainty that these suggested changes will be taken on board. The JLP is therefore at an advanced stage, although there is no timetable as yet set for adoption of the plan.

42. The challenge facing any Neighbourhood Plan Steering Group in this sort of situation is considering the extent to which it should rely on outdated adopted policies or the policies in an emerging plan. It seems unlikely at present that the JLP will be adopted before the Newton and Noss NP is finalised, so there is a potential risk that it could become out of date very quickly. To minimise these risks, the Steering Group has worked very closely with South Hams District Council to ensure that the NP policies are aligned as far as possible with the emerging JLP policies. In particular, the updated Basic Conditions Statement provides a useful, succinct assessment in Appendix 2, which demonstrates how the NP complies with both the adopted South Hams Core Strategy and with the Submission version of the Plymouth and South West Devon Joint Local Plan (2017).

43. In the submission JLP, Newton Ferrers and Noss Mayo are both identified as Sustainable Villages, each of which could accommodate sites for around 10 dwellings. The JLP states that the Neighbourhood Plan is an appropriate means of identifying and responding to local needs for development and the delivery of sustainable communities and can determine which sites to bring forward for development,

provided that they are consistent with the provisions of the JLP.

44. In my assessment of the policies in the NDP in Section 8 below, I have made my assessment in relation to the policies in the adopted Core Strategy and the emerging Joint Local Plan and, where necessary, made recommendations to ensure compliance with the strategic policies.

45. From my assessment of the plan's policies in the rest of my report, it is evident that the strategic policies of the adopted Core Strategy and emerging Joint Local Plan have generally been carried through to the Neighbourhood Plan. Therefore, subject to the recommended changes set out in Section 8 below, I conclude that the NP is in general conformity with the strategic policies of the development plan and therefore this basic condition is met.

Basic Conditions – conclusions

46. I have considered the Basic Conditions Statement, the supporting evidence and representations made to the Newton and Noss Neighbourhood Plan and I am satisfied that the Plan as submitted follows the general principles set out in national planning policy and contributes to the achievement of sustainable development. It sets out a positive vision for the parish and policies to protect its distinctive character while accommodating development needs.

47. At a practical level, however, a number of the policies in the Submission NP are not expressed as concisely and precisely as required and I have therefore suggested a number of modifications in Section 8 below to help ensure that the plan accords with national and strategic guidance and therefore meets the basic conditions.

European obligations and Human Rights Requirements

Strategic Environmental Assessment (SEA)

48. The Strategic Environmental Assessment Directive aims to provide a high level of protection to the environment by ensuring that environmental considerations are included in the process of preparing plans and programmes.

49. South Hams District Council screened the Newton and Noss NP to assess whether it required Strategic Environmental Assessment (SEA) or Habitat Regulations Assessment (HRA) in July 2017. The

Neighbourhood Plan area contains potentially environmentally sensitive areas, including Sites of Special Scientific Interest (SSSI's), Special Areas of Conservation (SAC's), two conservation areas and many listed buildings. The SEA Screening concluded that the plan is unlikely to have significant effects due to the limited nature of development proposed and therefore the undertaking of a Strategic Environmental Assessment would not be required. This view was confirmed by the relevant statutory bodies – namely, Natural England, Historic England and the Environment Agency.

50. The HRA screening identified four European sites which could be potentially affected by the Neighbourhood Plan – namely, the Dartmoor SAC, the Plymouth Sound and Estuaries SAC, South Dartmoor Woods SAC and the Tamar Estuaries Complex SAC. The HRA Screening concluded that NP policy N3P-4 should include reference to the need for s106 contributions to avoid and reduce potential recreation impacts to ensure there is no adverse effect on the integrity of the European Marine Site.

51. I have considered all the relevant background material and I am therefore satisfied that the submitted Newton and Noss Neighbourhood Plan meets the requirements set out in the SEA Directive so this basic condition is met.

Human rights requirements

52. The Basic Conditions Statement, at para 11.1, explains that consultation on the Newton and Noss NDP has been wide ranging and confirms that it is considered that the NP is compatible with the requirements of EU obligations in relation to human rights. No evidence has been submitted to me to suggest otherwise. I am satisfied, then, that the plan does not breach the European Convention on Human Rights obligations.

Other Directives

53. I am not aware of any other European Directives that would apply to this Neighbourhood Development Plan, and in the absence of any evidence to the contrary, I am satisfied that the plan is compatible with EU obligations.

8. Neighbourhood Plan policies

54. This section of my report considers the text of the NP and assesses the policies set out in the Neighbourhood Plan against the basic conditions.

55. The Plan is clearly written and well-illustrated and the Steering Group are to be congratulated on producing such a well-presented plan. All of the policies relate to the development and use of land and none cover excluded development, such as minerals and waste, so the statutory requirements and guidance set out in Planning Practice Guidance¹⁰ are met.

56. As a general comment and to assist future decision-takers, it would be helpful if paragraph numbers could be added to the whole plan.

- **Recommendation: Add paragraph numbers to the whole plan**

57. The maps in the NP are all well-presented and the areas to which the various policies apply are all very clear. I have considered whether it would be helpful to have a composite Proposals Map which covers all the proposals and land use designations proposed in the NP but realise that this would potentially be a complex map with many overlapping designations. I therefore leave it to the Steering Group, with advice from South Hams District Council, to consider whether such a plan would be a helpful and practical addition to the plan.

- **Recommendation: Consider adding a composite Proposals Map to the NP**

58. As part of this examination, my report includes a series of recommended modifications to ensure that the policies are expressed concisely and precisely in order to comply with the basic conditions. Where I have suggested modifications, these are identified in **bold text**. The recommended modifications relate mainly to issues of clarity and precision and are designed to ensure that the plan fully accords with national and strategic policies. I have considered the policies in the order they appear in the Plan, by section and comment on all of the policies, whether I have suggested modifications or not.

1. Introduction

59. This section summarises why a NP was needed and how it has been prepared. My only comment is in Section 1.5, which refers to the plan horizon being “to at least 2034”. To tie in with statements elsewhere in the plan and the timescale of the JLP, this should be changed to “to 2034”.

¹⁰ Planning Practice Guidance PPG para 004

- **Recommendation: Delete “at least” in the second line of the first paragraph in Section 1.5**

2. About Newton and Noss

60. This section describes the parish and its character and I have no comments to make.

3. Vision, Ambition and Objectives

61. This section outlines the vision, ambition and objectives of the plan. My only comment is on the second Housing objective, where to comply more closely with the NPPF and strategic guidance, the objective would be better expressed as “minimising the visual impact on” rather than “enhancing the visual impact on”. Given the whole parish is within the South Devon AONB, the reference to areas of high landscape value should also be expanded to add “including the AONB”.

- **Recommendation: Change “enhance” to “minimise” in the first sentence of the second housing objective on page 9. Add “including the AONB” at the end of the first sentence. Make the same change to other references to housing objectives in the remainder of the NP.**

4. Policies, Proposals and Rationale

62. The introductory paragraphs before each policy generally provide suitable and appropriate justification for the policies which follow. The “community said” boxes in yellow, associated with each policy, are a very helpful way of demonstrating that the NP policies are aligned with the aspirations of the local community. Where I consider that the supporting paragraphs need amendment to help explain and justify the plan policy, I have made comments to that effect.

General Policies

The Village Settlement Boundaries

63. To accommodate a very modest scale of growth, the NP proposes updated settlement boundaries to take account of the recently completed development at Archers Court and the proposed development north of Parsonage Farm. Both sites are shown as “Additions to the Settlement Boundary – Newton Ferrers” on the Village Settlement Boundaries Proposals Map on page 13. As these are permanent changes, the new settlement boundary which goes around these sites should be shown in black. As the Archers Court site is now fully built out, the blue hatching on the site needs to be removed. I understand

that planning permission on the field to the north of Parsonage Farm has recently been granted so the NP needs to be updated to reflect the latest position.

- **Recommendation: Add revised settlement boundary, depicted by a black line, to include the sites at Parsonage Farm and Archers Court to the Village Settlement Boundaries – Proposals Map on page 13; delete blue hatching from the Archers Court site. Update reference to the planning application for the field north of Parsonage Farm in the seventh paragraph on page 11 to reflect the latest position.**

64. On the Proposals Map on page 13, the location of the settlement boundary in Noss Mayo is not sufficiently distinct from the boundary of the Conservation Area; specifically, it is not clear whether the gardens of the properties on the north western side of Passage Road and the southern part of Noss Creek are within the development boundary. Looking at the existing development boundary in the adopted Local Plan, these areas are both defined as being within the conservation area but outside the development boundary. This is confirmed in the map of the Noss Mayo Conservation Area on page 33 of the NP. To provide certainty for future decision takers, I suggest that the settlement boundaries on the Proposals Map on page 13 are shown with a more definitive black line, to ensure there is a clear distinction between the Conservation Area and the settlement boundaries. The same issue applies to the southern boundary of the Newton Ferrers settlement boundary which also coincides with the Conservation Area boundary.

- **Recommendation: Depict the settlement boundaries on the Proposals Map on page 13 with a definitive black line to ensure there is a clear distinction between the Conservation Area boundary and the settlement boundaries where the two designations overlap in the Noss Mayo and Newton Ferrers Conservation Areas**

65. In N3P-1(b), the Parish Council is a statutory consultee on any planning application, but it is the District Council which takes any final decision on a planning application, so the reference to “in the view of the Parish Council and the community” should be deleted from the policy.

- **Recommendation: Delete “in the view of the Parish Council and the community” from Policy N3P-1(b)**

66. South Hams District Council has commented that the approach to small scale development outside

settlement boundaries in the AONB and the Undeveloped Coast in the JLP, seems unduly restrictive and risks being out of line with the NPPF ¹¹ which says:

Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
- *the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and*
- *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*

67. I agree with this assessment and suggest that policy N3P-1(b) is amended to make reference to the relevant strategic policies of the JLP, which are themselves aligned to the NPPF.

- **Recommendation: Add “and it complies with the relevant strategic policies of the JLP” at the end of Policy N3P-1(b)**

68. In N3P-1(c), reference is made to development having “no adverse impact”. As it is difficult to demonstrate that absolutely no harm will arise from a particular development proposal, it would be better to refer to development not causing “significant adverse harm”.

- **Recommendation: Add “significant” between “and cause no” and “adverse impact” in the third line of policy N3P-1(c)**

Protecting the waterfront

69. This is an important policy for the NP as it seeks to protect the waterfront, which is a very distinctive feature of the plan area which is highly valued by the local community. The policy wording has evolved and been strengthened in response to comments made at the Reg 14 consultation stage. My only comment is that requiring development proposals to have “no adverse impact” in N3P-2(a) and “not materially detract from” seems unduly onerous. I therefore suggest minor wording amendments to

¹¹ NPPF Para116

address this.

- **Recommendation: Delete “cause no adverse impact on” and substitute “conserve” in Policy N3P-2(a). Delete “not materially detract from” and substitute “conserve” in N3P-2(b)**

Development Policy Areas

70. The first paragraph on page 16 explains that the community wishes to retain the Development Policy areas which are defined in older, inherited plans. Specifically, they wish to save Policy MP12 from the South Hams Local Plan 1989-2001 – Part 5: Modbury Area. The objective of the policy is to discourage overdevelopment of housing plots and to protect the existing garden and open spaces within the villages. This policy will ultimately be superseded by the Newton and Noss NP and also by the South West Devon Joint Local Plan, so it would be better if the NP included a stand alone policy which does not rely on a policy in an outdated plan. I therefore suggest that the references to saved policy MP12 in Policy N3P-3 are deleted and that the first paragraph on page 16 is updated accordingly. The reference to “increase traffic movements” in N3P-3(a) could be taken to mean any increase in traffic movements which seems unduly onerous. I suggest this clause is amended to refer to a material increase in travel movements.

- **Recommendation: In second sentence of first paragraph on page 16, delete “save” and substitute “retain the principles of” “Delete “as defined in saved policy MP12 “from N3P-3(a) and N3P-3(b). Add “materially” before “increase” in N3P-3(b).**

Development and construction

71. The design of new development is a key issue for the community, as evidenced by the list of concerns in “the community said” section on page 19 of the NP. It was also a discussion point which was addressed in the Housing Design questionnaire. Accordingly, the Submission version of the NP proposes that all development proposals should be accompanied by a Design and Access Statement (DAS). Guidance on DAS for the NP is set out in Appendix H13. It is apparent both from the wording of the N3P-4a) (i) and the detail included in Appendix H13 that the intention would be that this requirement should apply to all developments. This however, runs contrary to both national guidance set out in Planning Practice Guidance (PPG) and the South Hams District Council Planning Application Validation checklist, which is itself aligned with PPG.

72. The PPG ¹²defines which applications must be accompanied by a Design and Access Statement as follows:

- *Applications for major development, as defined in article 2 of the Town and Country Planning (Development Management Procedure (England) Order 2015;*
- *Applications for development in a designated area, where the proposed development consists of one or more dwellings; or a building or buildings with a floor space of 100 square metres or more.*
- *Applications for listed building consent.*

For the purposes of Design and Access Statements, a designated area means a World Heritage Site or a conservation area.

Applications for waste development, a material change of use, engineering or mining operations do not need to be accompanied by a Design and Access Statement.

Applications to amend the conditions attached to a planning permission do not need to be accompanied by a Design and Access Statement.

There are some differences between the requirements for applications for planning permission and applications for listed building consent.

73. The Town and Country Planning (Development Management Procedure) (England) Order 2015 states:

“major development” means development involving any one or more of the following—

(a) the winning and working of minerals or the use of land for mineral-working deposits;

(b) waste development;

¹² Paragraph: 030 Reference ID: 14-030-20140306 Revision date: 06 03 2014

(c) the provision of dwellinghouses where—

(i) the number of dwellinghouses to be provided is 10 or more; or

(ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);

(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

(e) development carried out on a site having an area of 1 hectare or more;

74. To comply with government guidance and strategic policies, and therefore meet the basic conditions, the reference to Design and Access Statements should be deleted from N3P-4 a)(i). Corresponding amendments are needed to the second, third and fourth paragraphs on page 20 so that the guidance in the NP aligns with the thresholds in PPG and the strategic policies of the Local Plan. As a consequence, the status of the Design and Access Statement for the NP which is on the website as Appendix H13 needs to be addressed and I suggest that the Steering Group discusses this with South Hams District Council.

- **Recommendation: Amend first sentence of third paragraph on page 20 to read “In line with government guidance, SHDC only requires Design and Access Statements to be prepared for larger development, development in a Conservation Area and proposals requiring listed building consent.” Start a new second sentence at “However, because of geographic constraints...” And later in the second sentence, delete “requires that it” and substitute “provides general design guidance which”. Delete second sentence of Policy N3P-4 a)(i). Steering Group to discuss the status of Appendix H13 with South Hams District Council**

75. The requirement for development to use natural materials, set out in clause N3P -4(ii) seems unduly onerous and could affect the viability of development, so I suggest that the requirement is qualified to say that natural materials should be used wherever possible.

- **Recommendation: Add “Wherever possible” at the start of N3P-4a)(ii)**

76. In N3P-4b) (vi) reference is made to the Parish seeking to approve applications, but it is for the District Council to approve planning applications with the Parish Council as a statutory consultee. Accordingly, some amendment to this clause is required.

- **Recommendation: In N3P-4 b)(vi), delete “seek to approve” and substitute “support”**

Movement and parking

77. Policy N3P-5 deals with Movement and Parking and in its response to the Reg 16 consultation on the NP, South Hams District Council has made a number of comments and suggestions to fine tune the policy wording so that it complies with the relevant strategic guidance.

78. In N3P-5 (a) it is not clear who will provide the independently validated evidence to support a planning application. The District Council suggest that this could be provided by a highways consultant and assessed by a Devon County Council officer, depending on the scale of the development. I therefore suggest that this is explained in the supporting text.

- **Recommendation: Add a new paragraph after the sixth paragraph on page 23 as follows:
“Depending on the scale of development, highways evidence to support planning applications may be required. These should be provided by a highways consultant and assessed by Devon County Council officers.”**

79. In N3P-5(c), I agree with the District Council’s concern that not permitting any loss of public car parking through development seems unduly restrictive, as there could well be situations where suitable alternative provision could be made. I therefore suggest that the policy is reworded so that it provides flexibility to cover such circumstances.

- **Recommendation: Reword N3P-5(c) to read: “Development that will result in the loss of public car parking will not normally be permitted unless suitable alternative provision can be made.”**

80. The District Council has commented that garages are rarely used for the parking of cars so any policy which relies on them for parking provision can lead to problems of on-street/footway parking. I therefore agree with their suggestion that wording to this effect should be added to N3P5-(d).

- **Recommendation: Add to the end of N3P-5(d) (i) “Garages will not normally be counted as parking spaces”**

81. Policy N3P-5(e) seeks to support proposals which help to provide additional public car parking but could be interpreted as meaning this was regardless of the merits of the scheme, which would not be appropriate. South Hams District Council suggest some rewording which could apply within the villages, but as this requirement could apply across the plan area, I suggest that a more generic rewording with wider application would be more appropriate.

- **Recommendation: Reword N3P-5(e) to read “Development that is likely to generate a demand for additional parking should provide additional off street parking where possible and this will weigh favourably in the planning balance”**

Drainage and flooding

82. The Environment Agency has commented that it is generally supportive of Policy N3P-6 but has suggested that it would benefit from strengthening to align with JLP policy DEV37, to ensure that sewage/wastewater treatment facilities are in place in advance of development taking place. I agree with this would be helpful and suggest an additional clause at the end of Policy N3P-6, to reflect the latest version of JLP policy DEV37, as set out in the potential modifications to the JLP dated December 2017. I note that the proposed modifications to the JLP suggest that the discharge hierarchy is removed from Policy DEV37/4 so an amendment to the fifth paragraph on page 26 is also necessary to make clear that the reference is to an earlier draft JLP policy.

- **Recommendation: Add a new clause (d) to Policy N3P-6 as follows: “Development will not be permitted without confirmation that sewage/wastewater treatment facilities can accommodate or will be improved to accommodate the new development, in advance of the development taking place.” Add “original version of” between “in the” and “JLPDEV37/4” in the first line of the fifth paragraph on page 26.**

Planning obligations and commuted sums

83. Policy N3P-7 provides guidance developer on contributions and lists the current community priorities, which will be reviewed every five years by the Parish Council. As drafted, the policy mixes guidance about contributions coming from s106 agreements and through CIL. It would therefore benefit from some streamlining, particularly to make clear that the requirements listed at the end of the policy under clause (i) to (iii) apply both to s106 and CIL contributions. A consultee suggested that the sixth

community priority listed in the policy could be strengthened to make reference to the potential for developer contributions to be used to help towards improved facilities at the European Marine Site and I support this suggestion.

- **Recommendation: Reword first sentence of Policy N3P-7 to read : “Commutated sums generated through planning obligations for developments and through CIL, when introduced, will be spent within the Parish to benefit the local community” . Add as a new second sentence: “All developer contributions should be:**
 - (i) Necessary to make the development acceptable in planning terms**
 - (ii) Directly related to the development and**
 - (iii) Fairly and reasonably related in scale and kind to the development”**

Add “and where possible improve facilities at the European Marine Site” at the end of Policy N3P-7 (6).

Delete “Should Community Infrastructure Levy be introducedlimiting the funding of infrastructure by “pooling” contributions” in the last paragraph of Policy N3P-7

Heritage

84. It is unreasonable to expect all development proposals to enhance heritage assets so some minor rewording of policy N3P-8 is required. Policy N3P-8(c) provides guidance on the protection of the non-designated heritage assets listed on page 34 of the plan. To improve clarity, I suggest that the location of the list is included in the bold type of the policy rather than in blue text as at present.

- **Recommendation: Delete “harm but enhance” in N3P-8(b) and substitute “have a significant adverse impact on” . Delete the text in blue font at the end of N3P-8(c). Reword N3P-8(c) as follows: “Non-designated heritage assets, buildings and groups of buildings - listed on page 34 of this plan - that make a positive contribution to the character, views and setting of their location, including assets identified during the lifetime of the plan, should be conserved and, where possible, enhanced”**

Environment

Protecting the landscape

85. South Hams District Council has suggested some minor rewording of policy N3P-9, so that it complies more closely with the guidance in strategic policies and the NPPF and I agree this would be beneficial. Clause (a) of the policy refers to Core Strategy policies SO18, SO22 and SO23 but it is likely that these will be very soon replaced by updated policies when the Joint Local Plan is adopted. A more generic reference to relevant strategic policies in the development plan would address this.

- **Recommendation:** In the first sentence of Policy N3P-9, replace “maintain and enhance” with “conserve”. In N3P-9(b) delete “Core Strategy policies SO18, SO22 and SO23” and substitute “relevant strategic policies in the development plan”. In N3P-9(b) replace “enhancing” with “conserving”. In the second line of N3P-9(c), add “adversely” between “not” and “impact”

Local Green Spaces

86. Policy N3P-10 seeks to protect a number of Local Green Spaces in the plan area, identified through a local nomination and validation process which is described and documented in the various appendices which accompany the NP.

87. The NPPF provides clear guidance about the designation of Local Green Spaces and states in paras 76 and 77 that:

“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed and be capable of enduring beyond the end of the plan period.

The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a*

playing field), tranquillity or richness of its wildlife; and

- *where the green area concerned is local in character and is not an extensive tract of land.”.*

88. Members of the N3P Environment Working Group initially put together a questionnaire for the community to propose green spaces for consideration and the questionnaire was distributed to every household within the Parish at the beginning of January 2017.

89. A total of 76 areas were proposed and this was narrowed down to 64 suggested Local Green Spaces which were then put forward for consideration by the community at the public consultation on 1st-2nd April 2017. Through a process of further engagement, particularly with landowners, this list was narrowed down to the 20 areas proposed as Local Green Spaces in the submission version of the NP. I visited the proposed sites on my visit to the area in February.

90. It is evident that the selection of sites to be designated in the plan as LGS has been both rigorous and transparent and the Environment Working Group are to be commended for all the background work which they have carried out in support of the plan.

91. In terms of the policy itself, while the two sentences at the top of page 40 provides a brief context, the detail about the characteristics of Local Green Space is set out in a blue box immediately below a similar blue box which contains the policy wording. To ensure that it is clear that the second blue box is not part of the planning policy, I suggest that the text in the second blue box is moved so that it follows immediately after the introductory two sentences on page 40.

- **Recommendation: On page 40, move the text in the second blue box, so that it follows the first two sentences at the top of the page**

92. The policy as drafted makes reference to “minor development” being permitted, provided it is directly associated with and necessary for the public enjoyment of the green space. This does not provide sufficient precision for future decision-makers so I suggest that the policy wording is expanded to reflect the clearer guidance which is emerging from the Joint Local Plan – specifically Policy Dev 29 which deals with Green and Play Spaces, including Designated Local Green Spaces.

- **Recommendation: Reword second sentence of first paragraph of Policy N3P-10 to read: “Only minor development of a designated Local Green Space will be permitted where it enhances the value of**

the green space, for example through sports, allotment and play provision, lighting, cafes, educational uses and sustainable transport routes”

93. The Local Green Spaces: Proposals Map on page 42 of the NP shows the general location and extent of each of the Local Green Spaces, but the small scale of the plan makes it difficult to discern the exact boundaries of the sites. I therefore suggest that the detailed site plans for each LGS set out in Appendix E7 are included as an Appendix to the NP. A cross reference to this appendix would also need to be added to N3P-10.

- **Recommendation: Add detailed site plans for each designated Local Green Space as an Appendix 1 to the NP. Add “and shown in Appendix 1” after “identified in the Plan” in the first line of Policy N3P-10.**

Housing

Balanced Housing Stock and Local Needs Housing

94. Housing is an important issue for the NP and both the text of the NP and extensive supporting evidence explain the pressures and issues which the community are facing, particularly in terms of affordable housing and second home ownership. The emerging JLP states that the Neighbourhood Plan is an appropriate means of identifying and responding to local needs for development and the delivery of sustainable communities and can determine which sites to bring forward for development, provided that they are consistent with the provisions of the JLP. In the submission JLP, Newton Ferrers and Noss Mayo are both identified as Sustainable Villages, each of which could accommodate sites of a modest scale of around 10 dwellings. For clarity, the NP should explain that sufficient land has been identified to meet needs over the JLP period up to 2034 – so a minor adjustment is needed to the NP supporting text on page 44.

- **Recommendation: At the end of the second sentence of the second paragraph on page 44, add “over the JLP plan period to 2034”**

95. As the NP explains on page 44 and in Appendix H9, there are already sufficient homes with planning consent to meet the needs of the community. Two housing sites are identified on the Proposals Map on page 13. As Site A at Archers Court is now built out, I suggest that it no longer needs to be depicted as an allocation, merely shown as a part of the built-up area of the village within the settlement boundary.

As site B has only recently been granted planning consent, it should continue to be shown as an allocation. I have made recommendations to address these points in paragraph 63 above.

96. Policy N3P-11 seeks to ensure a balanced housing stock and that local housing needs are met but needs some fine-tuning to ensure it complies with national guidance and the strategic policies in the development plan. South Hams District Council suggests some changes to ensure that clauses (b) and (c) policy make clearer references to local circumstances and also guidance on replacement dwellings is provided in clause (c). I support these suggestions.

- **Recommendation: Reword N3P-11(b) to read “Applications for new dwellings reasonably capable of accommodating more than 3 bedrooms will be required to provide evidence of local need.” Add as a new clause (c) – “Replacement dwellings should either not exceed the original gross floor area of the original dwelling by more than 50% or should not reasonably be capable of accommodating more than 3 bedrooms, unless evidence of local need for a larger dwelling is provided”. As a consequence, renumber the clauses which follow as (d), (e), (f) and (g). In new clause (d), insert “reasonably capable of accommodating “after “smaller units”.**

Second homes and “principal residence “requirement

97. Imposing a Principal Residency condition which seeks to restrict new homes which are used as second homes is an issue which is being addressed in a number of Neighbourhood Plans in the South West, notably in the most popular coastal areas of Devon and Cornwall. I have looked at a number of neighbourhood plans which have been accepted by other neighbourhood plan examiners and approved at referendum and recognise that the wording being suggested for the Newton and Noss Neighbourhood Plan policy is very similar to that now adopted in other neighbourhood plans.

98. To demonstrate why such a policy might be necessary a neighbourhood plan needs to provide supporting evidence. The Second Homes survey carried out in 2016 showed that 18.4% of homes in the Parish were second or holiday homes, with a particular concentration in Noss Mayo of 36%. Further evidence was drawn together in a Discussion Paper “Second Homes in Newton and Noss – do we have a problem?”

99. An online community survey demonstrated support from just over half of those who responded for a policy restricting second homes although I note that some concerns were expressed by a number of

respondents about the idea of Community Land Trust purchasing small holiday properties on the open market and then reselling them or letting them to local people.

100. I note, in particular, that South Hams District Council has been broadly supportive of the principle of a principal residence type of policy. This was confirmed in a council resolution on December 15th 2016 which noted the approach of the St Ives NP and its principal residence policy and stated that the Council 'supports Town and Parish Councils within the South Hams District to adopt similar policies in their own Neighbourhood Development Plan'.¹³

101. In terms of compliance with the basic conditions, I have considered how the policy might comply with the NPPF, particularly the requirement about plans "delivering a wide choice of quality homes" and "delivering sustainable development".

102. After examining the supporting evidence and some considered deliberation, I conclude that because of the adverse impact on the local community of the uncontrolled growth of second homes the restriction of further second homes does help to contribute to delivering sustainable development. In terms of "delivering a wide choice of quality homes", I consider that the principal residence policy could help to deliver of the types of homes identified as being needed within the community.

103. I note also that the only representations on the policy at Reg 16 stage came from South Hams District Council and concerned a minor wording point about whether a reference to homeowners living abroad is required. I agree with this comment so a minor rewording of N3P-12 is required. Clause (b) repeats the guidance in clause (a) and so should be deleted.

- **Recommendation: Delete "or living abroad" from the fourth line of Policy N3P-12(a). Delete clause N3P-12(b) and renumber clause N3P-12(c) as N3P-12(b)**

Business

Business premises

104. This policy seeks provides guidance on business premises and I have no comments to make in relation to its compliance with the basic conditions.

Health and Wellbeing

¹³ JLP Councils PSWDJLP Examination Hearing Statement – Matter 8 January 2018

Community facilities and infrastructure

105. This policy seeks to support community infrastructure and facilities and I have no comments to make in relation to its compliance with the basic conditions. Criteria N3P-14(c) provides guidance on public toilet provision, but the existing facilities are not listed in the list of community facilities in the blue box at the foot of page 54. I suggest therefore they are added to this list.

- **Recommendation: Add “Public toilets” to the list on the box at the foot of page 54 and specify their location**

5. Delivering the Plan

106. This is a useful section outlining how the neighbourhood plan will be delivered and I have no comments to make

9. Conclusions and Recommendations

107. I have examined the Newton and Noss Neighbourhood Plan and I have concluded that, subject to the modifications set out in my report, it meets the basic conditions and other statutory requirements.

108. I am therefore pleased to recommend to South Hams District Council that, subject to the modifications set out in my report, the Newton and Noss Neighbourhood Plan should proceed to referendum.

109. I am also required to consider whether the referendum area should be extended beyond the Newton and Noss Neighbourhood Plan area. I see no reason why it would be necessary to alter or extend the plan area for the purposes of holding a referendum, nor have I received any representations to that effect. I therefore conclude that the plan should proceed to referendum based on the neighbourhood area approved by South Hams District Council in 2014.

Appendix 1 Background Documents

In undertaking this examination, I have considered the following documents:

- Newton and Noss Neighbourhood Plan 2017-2034: Regulation 15 version – October 2017
- Newton and Noss Neighbourhood Plan: Statement of Consultation
- Newton and Noss Neighbourhood Plan: Basic Conditions Statement: October 2017
- Newton and Noss Neighbourhood Plan: Strategic Environmental Assessment and Habitat Regulations Screening Report: July 2017
- Newton and Noss Neighbourhood Plan: Monitoring Framework: October 2017
- Schedule of Responses made to Regulation 16 Consultation: dated 13.12.17 and 6.2.18 and associated appendices
- Newton and Noss Neighbourhood Plan: Statutory consultees responses – Reg 14 Consultation
- Newton and Noss Neighbourhood Plan: Community and landowners responses – Reg 14 Consultation
- Newton and Noss Neighbourhood Plan: Amendments – tracked changes – post Reg 14 Consultation responses
- South Hams Local Plan 1989 to 2001: Part 5: Modbury Area: Adopted 1996
- Plymouth and South West Devon Joint Local Plan Submission: July 2017
- Plymouth and South West Devon Joint Local Plan: Potential modifications (tracked changes) December 2017
- Consultation on South Hams and West Devon Local Planning Validation List: November 2017
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance March 2014 and subsequent updates

