

John Slater Planning Ltd

# Salcombe Neighbourhood Development Plan 2018- 2034

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## Submission Version

A Report to South Hams District Council on the Examination of the Salcombe Neighbourhood Development Plan

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29<sup>th</sup> April 2019

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## Executive Summary

My examination has concluded that the Salcombe Neighbourhood Development 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 –

- Removing the requirement relating to the submission of a landscape appraisal, a landscape plan and biodiversity action plan.
- Removing the requirement on all development to submit a statement showing how green infrastructure has been incorporated into the development.
- Removing from a number of policies, any text related to the justification for that policy.
- Removing from the policy dealing with the estuary the provisions relating to pontoons that fall outside the plan area.
- Deleting five viewpoints which cover land or water which fall outside of the plan area.
- Removing the policy dealing with criteria for plot subdivision within the settlement boundary.
- Amending the design quality policy to allow evidence to justify departure from its requirements.
- Removing the definition of locally affordable employment from new employment allocation policy.
- Amending the boundary of the policy which seeks to retain employment land at Island Street to remove a retail unit.
- Deleting the policy which sets out the intention of the Town Council to prepare with others, an integrated transport Statement of Intent.
- Removing the specific parking standard, due to lack of supporting evidence.
- Deleting the policy covering the allocation of affordable houses to those with a local connection as this is not a policy for the use and development of land.
- Amending the percentage of market housing required to support affordable housing delivery on an exception site, so as to be the minimum necessary to achieve a viable scheme.
- Rationalising the community facilities policy in respect of existing facilities to be protected and also to bring the policy for the provision of new facilities in new residential development to align closer with the South Hams Open Space, Sport and Recreation (OSSR) Study 2017 - Quantity, Quality and Accessibility Standards.

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 recently adopted Plymouth and South West Devon Joint Local Plan 2014-2034. 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 Salcombe Town Council. A Steering Group was appointed to undertake the plan preparation made up of local volunteers. Salcombe Town 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 Salcombe 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 South Hams District Council.

## The Examiner’s Role

4. I was initially appointed by South Hams District Council in October 2018, with the agreement of Salcombe Town 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 (NPIERS) 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 South Hams District Council and Salcombe Town 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 Salcombe 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 designated by South Hams District Council, for the Salcombe Neighbourhood Plan, on 18<sup>th</sup> July 2013, if it is modified in accordance with my recommendations.
  10. I can also confirm that it does specify the period over which the plan has effect namely the period from 2018 up to 2034.
  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 neighbourhood area designation.
  13. Salcombe Town 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 was initially appointed to this role, prior to the plan being the subject of its Regulation 16 consultation. During the course of that consultation, the Chair of the Salcombe Neighbourhood Plan Group wrote to the South Hams District Council asking to amend the settlement boundary, which would have removed some properties from the settlement. This change was to overcome an objection from Natural England to the SEA/ HRA Screening Report. I was asked for my views as Examiner. My conclusion was that it is not possible to amend a submitted neighbourhood plan in the middle of the consultation, under the terms of the Regulations, as it referred to the consultation being on the plan “as submitted”. I therefore recommended that the first version of the Regulation 16 plan should be withdrawn, the plan be amended and resubmitted, which could then be the subject of a new 6-week consultation. That was the course of action that was followed.
18. I carried out an unaccompanied visit to Salcombe and the surrounding countryside on a very wet Sunday 3<sup>rd</sup> March 2019. Notwithstanding the weather, I was able to walk around the town centre and drive around the town to re-familiarise myself with the plan area. I have visited Salcombe on a number of occasions before being appointed to this role. I saw all the allocation sites and where I could, most of the viewpoints and the proposed Local Green Spaces.
19. Following my site visit and my initial assessment of the plan, I had a number of matters on which I wished to receive further information, both from the Town Council and the District Council. That request was set out in a document entitled *Further Initial Comments of the Independent Examiner* dated 4<sup>th</sup> March 2019. I received an initial response from the Plan Group on 14<sup>th</sup> March and a fuller combined response, on 23<sup>rd</sup> March 2019.
20. All documents have been placed on the respective websites.

## The Consultation Process

21. The initial idea to produce a neighbourhood plan came in 2012 when the town became one of the Neighbourhood Planning Front Runners. The Town Council organised an open meeting in July 2014, which was attended by around 30 members of the public, which led to the setting up of the Steering Group. Early work included an online and paper-based survey, the results of which were presented to public meeting held on 27<sup>th</sup> April 2015. That led to the preparation of a vision statement for the plan.
22. A further online survey was issued in May 2015 and a public meeting held, both exploring the issues facing Salcombe. This generated 517 responses including from local businesses. The Town Council prepared for the next stages by setting up four Working Groups in September 2015 covering Economy, Housing,

Infrastructure and Town and Environment, who were asked to explore in more detail the survey results and investigate in greater depth, the issues.

23. This led to further consultation and more detailed survey questions and studies including a housing need assessment. In 2016, the Steering Group launched a housing needs survey, an economy survey of local businesses and a resident's survey seeking the community's views on a range of specific issues and policy themes. The survey received 485 responses (a 25% response rate).
24. All this activity culminated in the preparation of the Pre-Submission version of the neighbourhood plan, which was the subject of the six-week public consultation, known as the Regulation 14 Consultation, which ran from 15<sup>th</sup> February to 5<sup>th</sup> April 2018. That consultation included drop-in sessions held at the Library and the Rugby Club. The summary of the consultation responses and the changes proposed to the plan are described in Section 5 of the Consultation Statement and in more detail in Appendix C4.
25. I am satisfied that the openness of the process has allowed the public and interested parties to shape their neighbourhood plan.

## Regulation 16 Consultation

26. The original Regulation 16 consultation was due to run from 30<sup>th</sup> November 2018 to 11<sup>th</sup> January 2019. However, on 6<sup>th</sup> December 2018, Salcombe Town Council wrote to South Hams District Council, stating that it wished to withdraw the submitted version of the plan and basic condition statement. It re-submitted the document with an amended settlement boundary. A new Regulation 16 consultation was organised by South Hams District Council which ran from 18<sup>th</sup> December 2018 until 29<sup>th</sup> January 2019.
27. In total, 13 responses were received from Natural England, South West Water, Historic Environment Team at Devon County Council, South Hams District Council, Highways England, Age UK, Ofcom, Westward Housing, Devon and Cornwall Police, Historic England, The Woodland Trust, WS Planning and Architecture and Martin King, the joint owner of land adjacent to the proposed viewpoint V22.
28. 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

29. 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.

30. The five questions, which seek to establish that the Neighbourhood Plan meets the basic conditions test, are: -

- Is it appropriate to make the Plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- Will the making of the Plan contribute to the achievement of sustainable development?
- Will the making of the Plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Will the making of the Plan breach or be otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan breach the requirements of Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017?

31. During the course of this examination the Government issued a revised 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.

## **Compliance with the Development Plan**

32. 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 now adopted Plymouth and South West Devon Joint Local Plan 2014 -2034, prepared by Plymouth City Council, West Devon Borough Council and South Hams District Council. The plan's overarching spatial strategy are set out in Policies SPT1 and SPT2. The plan proposes a minimum of 26,700 new homes to be built in the period 2014 – 34, with at least 7,700 required to be provided within the Thriving Towns and Villages policy area of South Devon.

33. Within the Thriving Towns and Villages area of South Hams, Salcombe is identified as one of the Smaller Towns and Key Villages, where collectively there is a need to allocate land for 911 new homes over the plan period and 46,780 sq. m of employment floorspace. In paragraph 5.140 of the Local Plan, Salcombe is described as “a small town that boasts an enviable and distinctive natural setting and a mild microclimate”. The plan recognises the expensive house prices in the town, the lack of affordable housing as well as the role tourism plays alongside marine services, which are both essential parts of the heritage



and character of the town. Policy TTV 24 proposes 53 new homes and 2000 sq. m of employment floor space included within three allocation sites, Bonfire Hill (13 homes) - now completed, Shadycombe for a mixed-use scheme of 20 houses and 2000 sq.m of employment and finally Land west of West End Garage, for 20 homes.

34. Policy DEV 10 deals with “Delivering high-quality housing” and Policy DEV 23 addresses “preserving and enhancing the landscape, townscape and seascape character”. Particularly relevant to Salcombe Neighbourhood Plan is Policy DEV 24 which sets out policy for the Undeveloped Coast and Heritage Coast. Policy DEV 25 relates to the high degree of protection given to the South Devon AONB. Finally, Policy DEV 26 addresses “protecting and enhancing biodiversity and geological conservation”

## Compliance with European and Human Rights Legislation

35. South Hams District Council issued a Screening Opinion, in December 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 “due to the limited nature of development and the continuity in land use”.
36. The District 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 the European protected sites, namely Dartmoor SAC, Plymouth Sound and Estuaries SAC, South Dartmoor Woods SAC and Tamar Estuaries Complex SPA as well as the candidate SAC Start Point to Plymouth South and Eddystone, which is also a Marine Conservation Zone
37. 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

38. I must firstly commend the Steering Group for preparing three well-presented submission documents. The Plan itself focuses on a number of key themes that are all of particular relevance to Salcombe. In particular, it is looking to protect the town’s setting in the South Devon AONB at the mouth of the Kingsbridge Estuary, as well as tackling issues of second homes and holiday lets which impact adversely upon the local housing market and it encourages the delivery

of affordable local employment development, particularly aimed at the maritime sector.

39. The document sets out the context of the neighbourhood area in appropriate detail. The document relies on a number of well-presented, clear maps and photographs. There has evidently been close collaboration between the Steering Group and the planners at South Hams District Council, with background evidence being shared.
40. There are a number of common themes that runs through my recommendations, which I propose to highlight in this section of my report, although I will touch on them again in the appropriate policy section.
41. Firstly, the policy wordings refer to “*future development*” in many instances. For the sake of clarity, the neighbourhood plan proposes policy that will deal with *all* development, which is the subject of a planning application. I will therefore in every case be recommending the omission of “future” so that the policies relate just to “development”. That then avoids any confusion if a proposal for retrospective planning consent work falls to be considered against the policy.
42. Secondly it is important to understand that the neighbourhood plan forms part of the development plan and will sit beside the recently adopted local plan. It is unnecessary for the wording of a policy to be offering “support” to a policy in another part of the development plan, that will already be covering the town. The Town Council’s desire to offer support to the local plan can be part of the justification for the policy, and included within the supporting text. Equally it is unnecessary for a policy to duplicate matters either covered by another policy in the neighbourhood plan or included in the local plan. The need to avoid duplication of policy is a matter that is set out in Secretary of State guidance.
43. The documentation required to be submitted with the planning application is not matter that can be stipulated by a neighbourhood plan policy. The planning system provides for a local planning authority to set out its requirements as to which documents must be submitted with a particular type of application or in particular situations. This “local list” is subject to its own consultation and is required to be reviewed at least every two years. That list is not part of the development plan. It is not the remit of a planning policy to identify particular documents which must accompany a planning application, but rather it is to indicate how a planning proposal will be considered. There are a number of policies in the Salcombe plan where I have had to recommend that requirements to submit, for example, a statement say related to green infrastructure should be deleted.
44. Similarly, a proposal will be judged against *all* policies in the neighbourhood plan. For example, the design policy will be relevant to any new buildings and alterations and it is not necessary to highlight particular policies that have to be complied with in respect of some types of applications e.g. extensions to community buildings.
45. Finally, it is important that planning policy is based on proportionate evidence and I would especially commend the quality of evidence produced in support of

the principal residence policy. However, in a number of areas, for example the establishment of a local car parking standard for residential development in the town and the policies restricting infill development within the settlement boundary, I am not satisfied that the policies have been substantiated by any evidence.

46. 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, so that the plan must still read as a coherent planning document.
47. Following the publication of this report, I would urge the Town Council and South Hams planners to work closely together to incorporate the appropriate changes which will ensure that the text of the Referendum Version of the neighbourhood plan matches the policy, once amended in line with my recommendations.

## **The Neighbourhood Development Plan Policies**

### **Policy SALC Env1: Impact on the South Devon Area of Outstanding Natural Beauty**

48. The whole of the plan area falls within the South Devon Area of Outstanding Natural Beauty, which is the highest level of landscape designation and is established at national level. Legislation imposes a duty on all relevant authorities to have regard “to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”.
49. However not all the plan area falls within the Heritage Coast, and the urban centre of Salcombe is outside the designated Devon Undeveloped Coast.
50. As written the first sentence places a decision maker under an obligation to have regard to the impacts of the development on “...the Undeveloped Coast, the Heritage Coast and rural landscape...” irrespective of whether the site lies within the areas covered by these designations. I consider that it will be over onerous and in fact the requirements set out in the seven criteria cover all these matters in a much more targeted manner, and particularly in terms of assessing the impact on the AONB. It is important that the neighbourhood plan policies are complementary to local plan policies covering these designations. I will examine each criterion in turn:
  - a) I consider the requirement to maintain the intrinsic character of the landscape, is a legitimate requirement in an AONB but that designation also includes areas in towns and covered by the estuary. I therefore propose to expand its requirements, as well as “landscape”, to include “townscape and seascape”.
  - b) I consider that the requirement is legitimate, but the assessment must be proportionate.

c) The AONB Planning Guidance is found in an annex to the AONB Management Plan. This is not part of the development plan, but according to Secretary of State advice contained in the Planning Practice Guidance, the Management Plan can be a material consideration. The PPG states that it is relevant to plan making in “setting the strategic context for development by providing evidence and principles”. For the neighbourhood plan to require all planning applications to “conform” to the guidance, would, in effect, be giving that document “development plan status” which is not the intention for an AONB Management Plan. I note that the planning authorities in the South Devon AONB have not chosen to adopt the guidance as a Supplementary Planning Document. This document, which covers a wide range of matters from consultation through to guidance on particular types of development has been subject to public consultation, but has not been the subject of examination or sustainability appraisal. Nevertheless, I consider that much of the advice is relevant to development in the AONB. I therefore propose that the policy should not require “conformity” with the document but that decision makers should “have regard” to its contents when determining planning applications.

d) The requirement that development inside the Heritage Coast and the Undeveloped Coast should be shown to be incapable of being located outside these areas, should only relate to planning applications that fall within these designated areas.

e) I consider the requirements relating to irreplaceable habitats to be entirely in line with national policy.

f) I agree with the comments of South Hams District Council that the stipulation that “all proposals, with the exception of minor alterations to existing dwellings, must be accompanied by a landscape appraisal, a landscape plan and biodiversity action plan”, is an over onerous requirement to place on most schemes. This is a totally impractical requirement for many developments such as changes of use, or many other developments such as shopfronts. In any event, it is not within the remit of a neighbourhood plan policy to specify what documents need to accompany a planning application. That is the role of the Local List produced by the District Council. South Hams Local List already sets out the trigger for requiring landscape and visual impact appraisals and landscape schemes. I would also point out that the policy’s statement regarding an obligation to prepare a Strategic Environment Assessment is erroneous in that an SEA is only related to plan making. There are separate thresholds set out in regulation covering the need for development to be accompanied by an Environmental Impact Assessment. My conclusion is that this particular criterion does not accord with the basic conditions.

g) I have no comments to make on this criterion which supports opportunities to improve public access to the coast, where it is reasonable. That is in line with national expectations.

### *Recommendations*

**Delete the first sentence**

**In a) after “landscape” insert “, townscape and seascape”**

**In b) after “AONB” insert “and where relevant on the”**

**In c) replace “conform” with “have had regard”**

**Delete f)**

### **Policy SALC Env2: Green Infrastructure throughout the Parish**

51. This policy places the onus on every applicant to have to demonstrate an awareness and management of wildlife corridors and connections to the broader green infrastructure of South Devon. There will be many developments where this is simply not appropriate, either by virtue of the nature of the proposed development or its location. The focus of policy should not be imposed on every application, but only those proposals where these matters are of relevance to the proposal. That is the approach promoted in paragraph 117 of the NPPF (2012) which sets out, in the second and third paragraph of that section, the need to “identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for the biodiversity, wildlife corridors and stepping stones that connect them”. I consider that this information is properly set out in Figure 8, a map which has been prepared by the Devon Biodiversity Records Centre.
52. The Framework goes on to “promote the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species”. There will be some developments which are not likely to impact on any of these habitats of the identified species. I do not consider that it is a reasonable expectation that every applicant should have to refer to the list of priority species as set out. As part of the validation checklist, there is a Wildlife Trigger table/ checklist which identifies which applications need to be accompanied by a wildlife report prepared by an ecologist. It is important to note that the South Hams Green Infrastructure framework is part of the Joint Local Plan’s evidence base and does not form part of the comprehensive Local Plan policy that deals with Protecting and Enhancing Biodiversity and Geological Conservation – Policy DEV 26, which I believe is more in line with the expectations in the NPPF in terms of achieving net gains in biodiversity and balancing the benefits of development against any harm to the significance of the ecological assets.
53. I agree with the District Council’s views that the requirements set out in b) are too onerous. As previously stated, a neighbourhood plan policy cannot dictate documents that must accompany a planning application, as that is a matter for the Local Validation Checklist and that appears to be the thrust of the policy. The relationship with the local list’s requirements can be highlighted in the supporting text.

54. In terms of c) I consider that the requirement should be for the development to protect the locally distinctive natural features such as Devon banks, hedgerows and trees rather than requiring them to be referenced in a Statement. I will propose an amended form of wording to bring it into line with the basic conditions.
55. I do not consider the requirements to remove “alien and foreign species of trees” is a matter for planning control.
56. I have no comments to make on the last requirement within the policy.

### **Recommendations**

***In the first sentence, delete “Future” and insert at the end “where it is relevant to the proposal and as shown on Figure 8”.***

***Delete b)***

***In c) delete “Protection of” “and replace “included as part of the above statement” with “protected”***

***Delete “d”***

### **Policy SALC Env 3: Local Separation**

57. With a policy background of the restraint of development outside the settlement boundary and the location of the land in question falling within the Undeveloped Coast designation, as well as the Area of Outstanding Natural Beauty, the risk of coalescence between Salcombe and Batson is remote. Nevertheless, I can appreciate the community’s desire to have policy which explicitly expresses the desire to ensure that there remains an undeveloped gap between the two settlements.
58. However, as drafted, the first two paragraphs constitute the justification for policy, setting out what it is seeking to achieve and why and where it’s boundaries have been drawn. The crux of the policy and the part that will be used in the determination of a planning application is the final paragraph and I will recommend that the first two paragraphs be deleted and incorporated into the amended justification for the policy.

### **Recommendations**

***Delete the first and second paragraph***

***In the third paragraph insert “as shown on Figure 11” after “area”***

### **Policy SALC Env 4: Local Green Spaces**

59. Again, I find that the first two paragraphs are not actually “policy” but the justification for designating the area as Local Green Space (LGS). This information is relevant to the policy, but should be moved into the supporting text.

60. Having visited all the sites, I am satisfied that the 17 sites warrant designation as LGS and that the evidence base provides appropriate justification to meet the requirements of paragraph 77 of the NPPF (2012) describing why the green spaces are demonstrably special to the local community. I appreciate that a number of proposed LGS sites have been deleted from the submission version of the plan, including the sites LGS 18 and 19, which nevertheless still generated an objection from Age UK plc at the Regulation 16 consultation. Now that the plan is approaching its final version, I believe that it will be more straightforward from a user's point of view, if the final 17 open spaces were to be numbered consecutively.
61. I also recommend that Appendix 3 be attached to the plan itself, rather than being in online evidence base, again with numbering updated.

### **Recommendations**

***Delete the first two paragraphs including bullet points***

***Attach Appendix 3 as an appendix to the plan document***

***Renumber consecutively the LGS references and amend Figure 12A, 12B and 12C accordingly.***

### **Policy SALC Env5: Maintaining the character and the environmental quality of the estuary**

62. Whilst I appreciate the overarching desire to maintain the character of the Harbour and the Kingsbridge estuary and indeed Batson Creek, I do not consider that the first criterion, namely that proposals "should respect the tidal and weather variations through the year", is a practical basis for considering a planning application, at development management stage.
63. In terms of the requirements of criterion c) I find the policy is somewhat difficult to interpret, as it could be read, as to allow development "in sheltered locations protected from the prevailing and dominant winds and wave action". In any event, I consider that existing policies covering development inside and outside settlement boundaries, provide appropriate protection supplemented by the policies covering the Undeveloped Coast. I will propose that this criterion be deleted as it lacks the precision sought by national policy and therefore does not meet the basic conditions.
64. In terms of the extension of permanent pontoons, the plan can only make policy for the areas which fall within the neighbourhood area, which are shown on Figure 1A. It appears that the boundary coincides with the harbour wall and therefore any extensions to pontoons at Whitestrand, Normandy and Victoria Quays will be taking place in the harbour itself and therefore beyond the remit of this plan. To include policies for land beyond the neighbourhood area would contravene one of the requirements set out in the neighbourhood plan legislation. I therefore propose that these three locations should be deleted from the

policy. Shadycombe Creek and Batson Creek do fall within the plan area and can be included up to the extent of the low water mark. I will retain the presumption against new pontoons south of Jubilee Pier as the landward connection would involve development within the plan area.

65. Finally, the consideration and determination of any planning application cannot be conditional upon a supportive consultation response, in this case from Salcombe Harbour Board, although clearly its comments will be of relevance to the consideration of any proposal for works in the harbour.
66. In terms of criterion f), some impacts can be positive, so I will be suggesting that, for the sake of clarity, that only *adverse* effects are mitigated and I also recommend that such mitigation will be applied, “as far as is practical,” as some impacts will not be determined by the nature of the development, as opposed to the way the development is used.
67. The management plan referred to in the final paragraph should only be a material consideration, where it is relevant to the planning proposal.

### **Recommendations**

***In the first sentence, delete “future”***

***Delete a)***

***Delete c)***

***In e) remove “Whitestrans, Normandy and Victoria Quay” and omit “and support from the Salcombe Harbour Board”. Insert at the end of the second sentence “in the plan area”. Replace the final sentence with “No pontoon(s) to the south of Jubilee Pier will be supported”***

***At the end of the final paragraph, insert “where it is relevant to the planning proposal”.***

***In f) insert “adverse” before “impact”***

***At the end of the final paragraph insert “where it is relevant to the planning proposal”***

### **Policy SALC Env6: Locally Important Views**

68. This policy seeks to protect important views, and this type of policy is commonly found in neighbourhood plans. The intention is to protect against development which is in the foreground or middle ground of the view. In this case, there are some viewpoints that fall outside of the plan area. I have had to recommend that these be removed from the plan. That will also include views situated on the waterfront extending across the harbour which again will fall outside the plan area. The viewpoints in question are V12, V13, V14, V18 and V21. Otherwise I am generally satisfied that the choice of viewpoints has been justified in Appendix 4, a document which should again be attached to the plan as an appendix.
69. The wording of the policy needs to be rationalised. In particular, the first and second paragraphs along with the second sentence of the third paragraph as



well as the final paragraph of the policy act as justification. Again, I will recommend the rationalisation of the viewpoint numbering, in the same way as I suggested for the LGS, once the five viewpoints have been removed.

70. I have paid particular regard to representations made at Regulation 16 stage with respect to the viewpoint from the bench on the north side of Onslow Road. Views from this bench are effectively screened by the boundary planting on the adjacent land. However, I consider that there is an equally impressive view from the road itself, rather than from the bench, so I propose to retain the viewpoint as shown on the map, but will remove from the description “from bench”.

### **Recommendations**

**Delete the first two paragraphs and the first two sentences of the third paragraph. In the third sentence replace “these views” with “the views shown on Figures 13 and 14” and delete the final paragraph.**

**Remove from the list, viewpoints V12, V13, V14, V18 and V21 and renumber the viewpoints consecutively and amend maps accordingly**

**Amend the description of V22 by deleting “from bench”**

### **Policy SALC Env7: Maintaining the character and density in key areas of Salcombe**

71. The title of this policy restricts the extent of the policy to particular areas of Salcombe, but the second part of the policy imposes constraints on how any site within the Salcombe settlement area is dealt with.
72. In the case of policy areas, A and B, I am satisfied that there is planning case to protect these specific areas of low density housing, which has its own specific character, that the plan is entitled to protect.
73. I am not satisfied that the policy is supported by evidence in setting the criteria for dealing with the subdivision of any plot within the settlement boundary. Accordingly, I consider the policy is not in general conformity with the strategic policies, Policy SPT1 and Policy SPT 2 of the Joint Local Plan.

### **Recommendation**

**Delete the second paragraph of the policy.**

### **Policy SALC B1: Design Quality and safeguarding Heritage Assets.**

74. I have no major comments to make on points 1 and 2 of the policy and would particularly commend the plan’s approach to supporting appropriate contemporary design solutions. That is an example of positive planning that is encouraged by the NPPF.
75. In terms of requirement of section 2 b), it is not necessary for reference to be made in a policy, to the requirements of the NPPF, as justification for the policy. There will be some instances where it is not necessary for an applicant to have

to refer to the Historic Landscape Characterisation, and I will recommend an appropriate alternative form of wording

76. The District Council stated in its Regulation 16 representations that the requirements for the development outside conservation areas are too onerous. It has put forward an alternative form of wording for the first sentence of section 3 of the policy, which gives greater flexibility than the proposed wording that “All new development... will only be permitted where.....”.
77. In terms of criteria 3d) there is no value in a neighbourhood plan policy merely repeating a local plan policy which already covers the plan area. Furthermore, the Secretary of State in a Written Statement to the House of Commons, dated 25th May 2015, stated that neighbourhood plans should not set additional technical standards in terms of new residential development. I will be recommending that this part of the policy be deleted.
78. In view of my conclusions regarding policy SALC Env7 this element of the policy should be removed. It is similarly not necessary for policy to repeat and point to another policy which already applies, so I will propose removing reference to the Policy ENV 1 and ENV 2. This part of the policy can focus solely on the issue of car parking.

### **Recommendations**

***In the first sentence replace “project” with “development”***

***In 2b) omit “as set out in NPPF paragraph 128”***

***In the final sentence of 2b) insert after “Consideration” “, where it is relevant to the particular proposal, should”***

***In 3., replace “will only be permitted where” with “should be considered against the following criteria which should be met unless appropriate evidence is presented”.***

***Delete 3d)***

***In 4. remove” “it shall have due regard for Policy SALC Env1, 2 and 7 and”***

### **Policy SALC EM1: New employment land in Salcombe**

79. This policy seeks to build upon the allocation set out in Policy TTV 24 of the adopted local plan, which covers the two sites. This is an allocation for mixed-use development, comprising 20 units of residential development and 2000 m<sup>2</sup> of B1 space.
80. This policy is specifically focused on the employment element of the allocation and I consider that the aspiration that the development provides for “locally affordable employment” is a locally distinctive objective which is intended to meet the towns employment needs. I did seek clarification from the Town Council, as to what would be considered a level of rent or purchase price that a local marine repairer, or manufacturer can afford to pay. I was provided with commercially confidential information based on recent transaction terms which illustrated the levels of rent that would meet that criteria. However, the difficulty is to be able

to translate that into a planning policy requirement which would be enforceable in the context of a plan with a timeframe to 2034. Planning controls look at the acceptability of land use and I am satisfied that the location proposed is appropriate both for B1 uses and indeed some marine related B2 uses.

81. There needs to be a balance struck between delivering a viable scheme, that ensures the employment floor space is created in an area with high infrastructure and access costs, and which meets the highest standards of design expected for this important waterfront location, and delivering local economic development objectives. I understand that this land is owned by South Hams District Council, who would be able to secure the economic objectives that the Town Council is seeking to achieve and to do that through non planning measures such as through a lettings policy, individual tenancy agreements, setting rent levels, determining the size of units and also restricting the occupation of the units, (if they fall within Use Class B2), to marine related businesses, which could not be delivered under planning control under the provisions of the Town and Country Planning (Use Classes) Order 1995.
82. The District Council has sought some additional flexibility in terms of criteria c) dealing with the retention of the “existing number of car and boat parking spaces”. I agree that imposing strict requirements to achieve the exact number could possibly undermine the delivery of this important development and I will be recommending the amended wording.
83. I do not however agree with the District Council’s proposals in respect of the boundaries of the site. The Local Plan identifies the boundaries of the allocation and I consider that it would fundamentally undermine the objectives of the Area of Local Separation, if another part of the neighbourhood plan also countenanced encroachment into that area.
84. I am satisfied that there is no harm in the policy allowing Use Class B2 uses, alongside B1 uses, if they are related to maritime industries, which could include fibreglass construction and similar industrial processes. This is a central theme of the neighbourhood plan which it is seeking to encourage and I do not consider that the policy as proposed breaches the basic conditions.
85. In view of my conclusions regarding the ability of planning policy to be able to control commercially set levels of rent or purchase price, I will recommend that the final paragraph be removed.

### **Recommendations**

***In the first sentence replace “this plan supports” with “A development which provides” and insert at the end of that sentence “will be supported”.***

***In 3c) insert after” That” “as many as possible of”***

***Delete the final paragraph.***

### Policy SALC EM2: Retention of existing Employment Land in Salcombe

86. I fully appreciate the objectives of the plan in terms of seeking to preserve the existing employment uses on this waterfront site which backs onto Shadycombe Creek. The only issue with the policy is that it includes a shop which now stands at the junction of Island Street and Gould Road. As the objective of the policy is to retain employment land, I consider that it would be inappropriate to include this retail unit within the scope of the policy. Beyond that I am satisfied that the policy is justified and meets the basic conditions.



#### Recommendation

**Amend the boundary of the designation to remove the area shown cross hatched in red.**

### Aspirational Policy SALC T1: An integrated transport Statement of Intent for Salcombe

87. A neighbourhood plan policy is a policy that is used to determine a planning application. The question on any referendum will be along the lines of “Should the Salcombe Neighbourhood Plan be used to help determine planning applications in Salcombe?” I appreciate that this is described as *aspirational policy* but I am not convinced that this description is sufficient differentiation from a development plan policy, which can also be an aspirational policy. As presented this policy has the same status as other policies in the plan. It is not a policy that is capable of being used in a development management context. It is a statement of intent on behalf of the Town Council to work with other agencies to produce an integrated transport plan for the town. I would suggest that it be described as a Community Aspiration or incorporated within the supporting text, in the same way that the plan urges South Hams to issue an Article 4 Direction on the Island Street site.

88. I propose that this policy, albeit described as an aspirational policy, be deleted as it is not a policy that meets the requirements for being a policy for the development and use of land.

***Recommendation***

***That the policy be deleted.***

**Policy SALC T2: Car and trailer parking in Salcombe**

89. I consider the policy is too restrictive and could benefit from a degree of flexibility in terms of requirement for the replacement of spaces in relation to the town centre. I proposed to introduce “generally” into policy to allow a more balanced planning judgement in weighing the benefits of a development scheme against the acceptability of the replacement trailer and car parking spaces.
90. One of the requirements of a neighbourhood planning policy as set out in the Neighbourhood Planning section of the Planning Practice Guidance is that it should “be supported by appropriate evidence”. This policy proposes a parking standard for new and replacement dwellings, but it has offered absolutely no justification to back up the parking levels say in terms of the accessibility of the location e.g. changes of use to flats above shops in the conservation area. Therefore, this lack of evidence leads to my conclusion that the proposed standards do not meet the basic conditions. I do consider that it is appropriate for the policy to require *adequate parking spaces* as set out in the first section of the second part of the policy.

***Recommendations***

***In the second sentence of a) after “there” insert “generally”***

***In b) delete everything after the first sentence.***

**Policy SALC H1: Affordable Housing**

91. I understand that the Town Council agrees with the District Council’s proposed modifications that all developments should meet the various requirements, “where appropriate”. That will give policy a degree of flexibility to be able to respond to different situations. It is not necessary for a plan to support another policy which is already part of the development plan.
92. Decisions on the allocation of affordable homes, is not a policy “for the use and development of land” but is a policy administered by the Housing Authority, rather than the Planning Authority, and is not a matter that should require the agreement of the Town Council. I recommend that criterion f) be omitted. Similarly, it is not necessary for a policy to highlight the other policies that a proposal as to comply with. I will be recommending that criterion i) be removed.

***Recommendations***

***In the first sentence delete “This plan supports” and insert at the end “will be supported”***

***In the second sentence insert after “should” insert “where appropriate”***  
***Omit f)***

**Omit i)**

### **Policy SALC H2: Market Housing**

93. As previously mentioned, it is not necessary for a neighbourhood plan policy to be offering support for a local plan policy.
94. I do not consider their criteria d) is a policy in its own right, but the justification of requirement c). Similarly, it is not necessary for e) to differentiate between housing on allocated sites and on infill sites within the settlement boundary. That matter can be dealt with by the Policy SALC H3 and so can be omitted from this policy, as it is confusing and is unnecessary. I will recommend the deletion of criteria f) as proposals will already be covered by policy SALC B1 and also in view of my modifications to Policy SALC Env7 and also SALC Env1.

### **Recommendations**

***In the first sentence delete “This plan supports” and insert at the end “will be supported.”***

***Omit e)***

***Omit f) and g)***

### **Policy SALC H3: Principal Residence**

95. The heading of the policy in the document is SAL H3 and in the interests of consistency this should be changed to Policy SALC H3
95. Whilst I have carefully considered the objection from WS Planning and Architecture Ltd, I am very satisfied that the Town Council has provided evidence to support the imposition of a planning obligation (or a planning condition) on all new market housing, apart from replacement dwellings, based on the higher percentage of second homes and holiday lets in the plan area compounded by the extreme disparity between house prices in the town and the surrounding areas, with average local income. I consider the policy is important to deliver sustainable development and allows the plan to address local housing needs.

### **Recommendations**

***Amend the title to be Policy SALC H3***

***In the first sentence, before “Section 106” insert “planning condition, a”***

### **Policy SALC H4: Exception Sites outside the settlement boundary**

96. Again, that policy numbers need to be amended to SALC H4 and the first sentence again offers *support* and draws its justification from national policy as well as JLP Policy TTV 31. That latter local plan policy already covers the neighbourhood area. However, the neighbourhood plan is proposing a lower threshold for market housing to that proposed by the Local Plan Policy TTV27 (not Policy TTV31 as the local plan numbering has changed). I note the policy in the local plan, allows for up to 40% market housing, but my interpretation is that

this is the maximum percentage that it is permissible to make the scheme financially viable. If the scheme be viable at a lower percentage of market housing, that would allow more affordable housing to be delivered on site. I have been presented with no valuation based evidence that establishes that the threshold of 15% would allow schemes to be viable. I therefore am not persuaded that the plan should be adopting a different approach from the local plan.

### ***Recommendations***

***Amend the title to be Policy SALC H4***

***Delete “this plan supports” and replace “This is in line with National Policy and JLP TTV 31” with “will be supported”.***

***In e) replace the remainder of the sentence after “15%” and replace with “40% of the homes or land take, will be permitted, where it is demonstrated that this is the minimum level of market housing necessary to make the scheme financially viable”.***

### **Policy SALC HW1: Community Facilities**

97. This policy seeks to protect a range of facilities and services, ranging from the local primary school, sports clubs, the South West Coastal Path and rights of way, local parks, nurseries, allotments and beaches, places of worship and even the community bus service! The policy identifies the list by referring back to paragraph 6.7.1.2 of the plan document. A planning policy will be referred to the range of situations, such as being quoted in a reason for refusal on a planning decision notice, where the reader will not have access to the plan document. I also consider that it is important the policy protects community facilities in its own right and should not duplicate protection offered by other policies. For example, a number of the sites are protected by already being designated Local Green Space, a status which effectively rules out all development “except in special circumstances” whilst this policy allows the facilities to be replaced or relocated in a range of scenarios. A planning policy can only relate to the use of land and it is not possible through planning decisions to protect a community bus service, as that would be a financial and budgetary, not a planning, decision. Similarly, it cannot protect a facility that is run from another building such as a nursery, or which is run from a church; it is the building’s primary use that is protected as a community facility by the policy. That principle equally applies to Cliff House which is the location for a number of community facilities. I do not class the beaches at North and South Sands as community facilities as they are effectively natural features that form part of the landscape. However, I do recognise that their facilities can contribute to the recreational assets of the area.

98. The plan needs to offer clarity as to which buildings or spaces are actually protected by the policy rather than merely referring to categories of uses such as “places of worship” or “nurseries”. I have sought clarification of a number from the Steering Group who have confirmed in a number of cases which particular facilities are to be covered.
99. The facilities such as beaches, rights-of-way and the long-distance footpath are all, appropriately in my opinion, covered by items c) and d) of the policy. Existing open space and play areas are already protected by virtue of Local Plan Policy DEV 27 and there is no benefit in duplicating policy protection.
100. In view of the limited level of new development proposed for the plan area for sites greater than 10 units, opportunities for securing additional community facilities as opposed to open space, are going to be limited. I do not consider that, taking into consideration the three tests for planning obligations as set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010, a small residential scheme can be expected to provide community facilities beyond appropriate levels of open space and play areas.
101. I am aware that the District Council has adopted a strategic approach to requiring contributions to open space and sports and recreation facilities, which in some cases has a threshold of 5 units, lower than the figure of 10 used in this policy. I am not satisfied that there is justification for departing from the approach set out in the document produced by South Hams Open Space, Sport and Recreation (OSSR) Study 2017 - Quantity, Quality and Accessibility Standards which is an evidence based basis for negotiations. I will be recommending that the policy in b) should follow the priorities set out in the Salcombe Parish OSSR Plan and ensure that the funds are spent within the plan area. My amendments will bring the policy closer into line with the standards set out in the above document, which differentiates between the size of houses, not just numbers of units.
102. In terms of section c) I consider that this should make direct reference to the role played by the rights of way network including the South West Coastal footpath. In terms of section e) it is not necessary to state that ancillary buildings need to comply with specific other policies in the development plan and I will be proposing that this element of the policy be removed.

### **Recommendations**

***Amend the title to be Policy SALC HW1***

***Replace a) with the following:***

***“Development that results in the loss of the following community facilities will only be permitted if they are replaced by equivalent facilities of equal or higher quality or it can be demonstrated that they are no longer needed or are not financially viable:***

- ***Salcombe Primary School, Onslow Road***
- ***Salcombe Rugby Club, Camperdown Road***



- **Salcombe Tennis Club, Onslow Road**
- **Salcombe Swimming Pool, Onslow Road**
- **Salcombe Estuary Rowing Club, Gould Road**
- **Over 60s Day Centre, Buckley Street**
- **Salcombe Maritime Museum, Market Street**
- **Salcombe Dinghy Sailing School**
- **South Sands Sailing and Paddleboard School, Cliff Road**
- **Island Cruising Club**
- **Salcombe Yacht Club Dinghy Park, Gould Road**
- **Adventure South**
- **Beehives Nursery, Gould Road**
- **Salcombe Pre-School, Onslow Road**
- **Holy Trinity Church, Salcombe**
- **Our Lady of the Sea RC Church. Devon Road**
  
- **Cliff House including public library, community rooms, Salcombe Yacht Club and the Watch House, Cliff Road”**

**Replace b) with the following:**

**“New residential development will be expected to deliver, either through onsite provision where that is practical or, make a financial contribution through a planning obligation towards open space, sports, play and/or community facilities as set out in the South Hams Open Space, Sport and Recreation (OSSR) Study 2017 - Quantity, Quality and Accessibility Standards. Any contribution should be directed towards the projects and priorities set out in the Salcombe Parish OSSR Plan.**

**In c) in the final sentence after “rights of way” insert “including the South West Coast path”**

**In d) before “heritage” insert “beaches”**

**Delete e**

## **The Referendum Area**

103. 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 Salcombe Neighbourhood Plan as designated by South Hams District Council on 18<sup>th</sup> July 2013, is the appropriate area for the referendum to be held and the area for the referendum does not need to be extended.

## Summary

104. I must congratulate Salcombe Town Council on grasping the opportunities presented by neighbourhood planning to allow the community to shape its planning policies. Salcombe is a town in a beautiful location, whose protection will be enhanced by the policies in this plan. It will ensure that particularly new housing and new employment development can contribute to meeting the needs of the town's residents and businesses.
105. This is a locally distinct neighbourhood plan, which seeks to deliver on the expressed priorities of the residents of Salcombe and will deliver on its vision. This plan will provide a sound basis for dealing with planning applications in the town in the coming years.
106. The changes I have had to make are all required to ensure that the policies comply with the basic condition, specifically to have regard to the policy and advice of the Secretary of State and the need to be in general conformity with the strategic policies of the recently adopted Local Plan as well as to ensure that the plan delivers sustainable development.
107. 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.
108. **I am therefore delighted to recommend to South Hams District Council that the Salcombe Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum.**

JOHN SLATER BA(Hons), DMS, MRTPI  
John Slater Planning Ltd  
29<sup>th</sup> April 2019