

Independent Examiner's Report of the
Malborough Neighbourhood Plan

Author

Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD

Planning Consultant

NPIERS Examiner

CEDR accredited mediator

6th November 2018

SECTION 1 Contents

CONTENTS

Section 1

Contents..... 3

Section 2

Summary..... 4-5

Section 3

Introduction..... 6-9

Section 4.

The Report.....10-67

1.Appointment of the Independent Examiner..... 10

2.Qualifying Body.....10

3. Neighbourhood Plan Area.....10

4. Plan Period.....10

5. Regulation 15 assessment..... 10

6.Site Visit.....11

7. Consultation Process..... 11

8. Regulation 16 consultation responses..... 11

9.Compliance with the Basic Conditions..... 10

10.Planning Policy.....14

11.Other Relevant Policy Considerations.....14-15

12. Malborough Neighbourhood Plan Policies..... 22-67

Section 5

Conclusions and Recommendations.....68-69

SECTION 2

Summary

As the Independent Examiner appointed by South Hams District Council to examine the Malborough Neighbourhood Plan, I can summarise my findings as follows:

1. I find the Malborough Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.
2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Malborough Neighbourhood Plan go to Referendum.
3. I have read the Malborough Consultation Statement and the representations made in connection with this subject I consider that the consultation process was adequate and that the Neighbourhood Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.
4. I find that the Malborough Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.
5. At the time of my examination the Development Plan was the South Hams 2006 Core Strategy including saved policies from the 1996 Local Plan, 2007 Sherford New Community Area Action Plan (AAP), 2008 Affordable Housing Development Plan Document (DPD), 2010 Development Policies Development Plan Document (DPD) and the 2011 Site Allocations Development Plan Document (DPD).
6. Due to the length of time it has taken for the Plan to reach examination the local policy context has changed in that, the emerging Joint Local Plan (which will become the relevant Development Plan once adopted) has now progressed to examination stage and it is quite likely that it will be adopted either before this plan is Made (should it be successful at Referendum) or shortly after. At the time of my examination the Development Plan was the South Hams 2006 Core Strategy including saved policies from the 1996 Local Plan, 2007 Sherford New Community Area Action Plan (AAP), 2008 Affordable Housing Development Plan Document (DPD), 2010 Development Policies Development Plan Document (DPD) and the 2011

Site Allocations Development Plan Document (DPD). The preparation of the Plan and accompanying documents have been based on the Strategic Policies it contains- taking into account that some policies in the Development plan could be considered out of date. The Plan has also been developed to be in conformity with the strategic policies of the emerging JLP as far as possible to ensure that the Plan does not become out of date upon adoption of the JLP.

7. During the course of my examination I discovered that that the Strategic Environmental Assessment Report (SEA) had not addressed the impacts of the neighbourhood plan policies on the South Devon AONB robustly and did not clearly reflect how the Plan had been tested for general conformity with the Strategic Policies of existing Development Plan. As a result, I suspended the examination so that the SEA could be revised. The revised SEA Report has been used in my examination. This document is available to view on the South Hams District Council website.

SECTION 3

Introduction

1. Neighbourhood Plan Examination.

My name is Deborah McCann and I am the Independent Examiner appointed to examine the Malborough Neighbourhood Plan.

I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.

My role is to consider whether the submitted Malborough Neighbourhood Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Malborough Neighbourhood Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.

The Malborough Neighbourhood Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I concluded that it was not necessary to hold a Hearing.

2. The Role of Examiner including the examination process and legislative background.

The examiner is required to check whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:

1. The Plan can proceed to a Referendum
2. The Plan with recommended modifications can proceed to a Referendum

Where a policy does not meet the basic conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.” As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with ‘Wider Community Aspirations’. I will not generally refer back to parties on these detailed revisions. I will make modification either in order to meet the Basic Conditions, to correct errors or provide clarification. However, the focus of my examination, as set out in legislation is relatively narrow, I must focus on

compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I am also very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community's intent in producing their neighbourhood plan.

3. The Plan does not meet the legal requirements and cannot proceed to a Referendum

3.1 I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Malborough Neighbourhood Plan go to Referendum.

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

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004
- the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect
- the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

3.3 I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:

- Has regard to national policies and advice contained in

guidance issued by the Secretary of State;

- Contributes to the achievement of sustainable development;

and

- Is in general conformity with the strategic policies contained in the Development Plan for the area.

The Plan must also not breach, and otherwise be compatible with EU obligations and Human Rights requirements.

South Hams District Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e. greater than 50%), voting in favour of the plan, then the District Council must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.

SECTION 4

The Report

4.1. Appointment of the Independent examiner

4.1.1 South Hams District Council appointed me as the Independent Examiner for the Malborough Neighbourhood Plan with the agreement of Malborough Parish Council.

4.2. Qualifying body

4.2.1 The Malborough Neighbourhood Plan is submitted by Malborough Parish Council which is a qualifying body as defined by the Localism Act 2011.

4.3. Neighbourhood Plan Area

4.3.1 In September 2013 a formal application was submitted to SHDC to designate the whole Parish as a Neighbourhood Plan area and Malborough Parish Council was confirmed as the 'qualifying body' entitled to prepare a Neighbourhood Plan.

4.3.2 The designated area was confirmed by SHDC Executive in December 2013 after the statutory consultation period expired.

The Basic Conditions Statement submitted with the Malborough Neighbourhood Plan confirms there are no other Neighbourhood Plans covering the Area of the Malborough Neighbourhood Plan.

4.4 Plan Period

4.4.1 It is intended that the Malborough Neighbourhood Plan will cover the period 2014-2034.

4.5. South Hams District Council Regulation 15 Assessment of the Plan.

4.5.1 Malborough Parish Council, the qualifying body for preparing the Malborough Neighbourhood Plan, submitted it to South Hams District Council for consideration under Regulation 15. South Hams District Council has made

an initial assessment of the submitted Malborough Neighbourhood Plan and the supporting documents and is satisfied that these comply with the specified criteria.

4.6. Site Visit

4.6.1 I carried out an unaccompanied site visit to familiarise myself with the Neighbourhood Plan Area on 1st June 2018

4.7. The Consultation Process

4.7.1 The Malborough Neighbourhood Plan has been submitted for examination with a Consultation Statement which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

4.7.2 The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

(a) It contains details of the persons and bodies who were consulted about the proposed Neighbourhood Plan;

(b) It explains how they were consulted; (c) It summarises the main issues and concerns raised by the persons consulted; and

(d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed Neighbourhood Plan.

4.7.3 Having examined the documents and considered the focus of the Neighbourhood Plan I conclude that the consultation process was adequate, well conducted and recorded.

4.7.4 A list of statutory bodies consulted is included in the Consultation Statement.

4.8. Regulation 16 consultation by South Hams District Council and record of responses.

4.8.1 The District Council placed the Malborough Neighbourhood Plan out for consultation under Regulation 16 from 20th February 2018 to the 3rd of April 2018.

4.8.2 A number of detailed representations were received during the consultation period and these were supplied by the District Council as part of the supporting information for the examination process. I considered the representations, have taken them into account in my examination of the plan and made reference to them where appropriate.

4.9. Compliance with the Basic Conditions

4.9.1 The Malborough Neighbourhood Plan working Group produced a Basic Conditions Statement on behalf of Malborough Parish Council. The purpose of this statement is for the Neighbourhood Plan Working Group to set out in some detail why they believe the Neighbourhood Plan as submitted does meet the Basic Conditions. It is the Examiner's Role to take this document into consideration but also take an independent view as to whether or not the assessment as submitted is correct.

4.9.2 I have to determine whether the Malborough Neighbourhood Plan:

1. Has regard to national policies and advice
2. Contributes to sustainable development
3. Is in general conformity with the strategic policies in the appropriate Development Plan
4. Is not in breach and is otherwise compatible with EU obligations and Human Rights requirements.

4.9.3 Documents brought to my attention by the District Council for my examination include:

(i) The Malborough Neighbourhood Plan - the main document which includes policies developed in consultation with the community at various engagement events and workshops.

(ii) Consultation Statement – sets out how the community, and other stakeholders, have been involved in preparing the Plan.

(iii) Basic Conditions Statement - An appraisal of the Plan policies against European Union (EU) and national policies, as well as the strategic policies of SHDC and any other policies and guidance.

(iv) Malborough Strategic Environmental Appraisal report (revised)(SEA)

4.10 Comment on Documents submitted

4.10.1 Due to the length of time it has taken for the Plan to reach examination the local policy context has changed in that, the emerging Joint Local Plan (which will become the relevant Development Plan once adopted) has now progressed to examination stage and it is quite likely that it will be adopted either before this plan is Made (should it be successful at Referendum) or shortly after. At the time of my examination the Development Plan was the South Hams 2006 Core Strategy including saved policies from the 1996 Local Plan, 2007 Sherford New Community Area Action Plan (AAP), 2008 Affordable Housing Development Plan Document (DPD), 2010 Development Policies Development Plan Document (DPD) and the 2011 Site Allocations Development Plan Document (DPD). The preparation of the Plan and accompanying documents has been based on the Strategic Policies it contains- taking into account that some policies in the Development plan could be considered out of date. The Plan has also been developed to be in conformity with the strategic policies of the emerging JLP as far as possible to ensure that the Plan does not become out of date upon adoption of the JLP.

4.10.2 Having considered the SEA report submitted with the plan for examination I had two concerns. Firstly, it did not address the correct Development Plan for the purposes of this examination. Secondly, I did not consider that the report assessed the impact of the plan's policies on the

South Devon AONB adequately. I address this issue in more depth in section 4.11. Subsequently the SEA report has been revised satisfactorily.

4.10.3 I am satisfied having regard to these documents, including the revised SEA and other relevant documents, policies and legislation that the Malborough Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions.

4.11. Planning Policy

4.11.1. National Planning Policy

4.11.1.1 The National Planning Policy Framework (NPPF) 2012 sets out national policy, supporting this document is National Planning Policy Guidance (NPPG). The Government published its new National planning Policy Framework on 24 July 2018. Whilst the revised NPPF becomes a material consideration from the date of publication, paragraph 2014 sets out a transitional period:

“214. The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted (69) on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.

(69) For neighbourhood plans, ‘submission’ in this context means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.

During the transitional period for emerging plans submitted for examination (set out in paragraph 214), consistency should be tested against the previous Framework published in March 2012.”

Accordingly, my report has considered the Neighbourhood Plan on the basis of the 2012 NPPF and paragraph numbers relate to that document.

4.11.1.2 To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan “must be in general conformity with the strategic policies of the local plan”. Paragraph 16 states that neighbourhoods should “develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan”.

4.11.1.3 The Malborough Neighbourhood Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.

4.11.1.4 Of particular importance to my examination of the Malborough Neighbourhood Plan (as the entire parish is within the South Devon Area of Natural Beauty) are the following paragraphs from the NPPF:

“115. Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas and should be given great weight in National Parks and the Broads.

116. 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. “

4.11.1.5 I have examined the Malborough Neighbourhood Plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to minor modification does meet the Basic Conditions in this respect.

4.10.2. Local Planning Policy- The Development Plan

4.10.2.1 Malborough is within the area covered by South Hams District Council. Currently the relevant development plan is South Hams 2006 Core Strategy including saved policies from the 1996 Local Plan, 2007 Sherford New Community Area Action Plan (AAP), 2008 Affordable Housing Development Plan Document (DPD) 2010 Development Policies Development Plan Document (DPD) and 2011 Site Allocations Development Plan Document (DPD).

4.10.2.2 For the purposes of the examination of a Neighbourhood Plan the relevant strategic policies are those of the currently adopted Development Plan not the policies of an emerging local plan. The situation however, is complicated by the fact that during the course of the preparation of the Malborough Neighbourhood Plan the District Council have been preparing a new Local Plan jointly with the neighbouring authorities of West Devon and Plymouth. This new plan has now reached the stage of examination. At this stage it is not possible to be sure whether or not the strategic policies of the emerging plan will remain unchanged by the time of adoption. An additional complication is the age of the existing Development Plan, and the issues relating to out of date policies. The challenge for a Qualifying Body in these circumstances has been to produce a plan that meets the Basic Conditions in relation to the strategic policies of the Development Plan without creating a plan which becomes out of date at the point of adoption of a new local plan. I have considered the Strategic policies of the Development Plan and the Policies of the Malborough Neighbourhood Plan and I consider that the plan, subject to modification meets the Basic Conditions and should remain up to date upon adoption of the new local plan.

4.11. Other Relevant Policy Considerations

4.11.1 European Convention on Human Rights (ECMR) and other European Union Obligations

4.11.1.1 As a 'local plan', the Neighbourhood Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC.

4.11.1.2 A Strategic Environmental Assessment (SEA) screening opinion was sought as required from the following organisations during the formal consultation period:

- Natural England
- Historic England
- Environment Agency
- South Hams District Council

The conclusion was that a Strategic Environmental Assessment would be required.

4.11.1.3 In their consultation responses both Natural England and Historic England were concerned that the impact of any proposed allocated sites should be fully considered having regard to the sensitivity of the landscape and historic environment within the neighbourhood plan area.

4.11.1.4 The SEA was prepared by AECOM on behalf of the Qualifying Body. Having examined the report, I had two main concerns. Firstly, it did not address the correct Development Plan for the purposes of this examination, it only considered the strategic policies of the emerging local plan whereas the development plan for the purposes of my examination is the South Hams 2006 Core Strategy including saved policies from the 1996 Local Plan, 2007 Sherford New Community Area Action Plan (AAP), 2008 Affordable Housing Development Plan Document (DPD), 2010 Development Policies Development Plan Document (DPD) and the 2011 Site Allocations Development Plan Document (DPD).

4.11.1.5 Secondly, I did not consider that the report assessed the impact of the plan's policies on the South Devon AONB adequately. This was particularly concerning as the neighbourhood plan proposes site allocations for major development within the AONB. As a result of my concerns I suspended to allow for a review of the SEA to be carried out. As a result of that review the SEA report has been revised. The conclusion of the revised SEA is as follows:

“The assessment has concluded that the current version of the Malborough Neighbourhood Plan is likely to lead to significant positive effects in relation to the ‘population and community’, ‘health and wellbeing’ and ‘transport’ SEA themes. These benefits largely relate to the Neighbourhood Plan’s focus on enhancing the quality of life of residents and accessibility, including through the delivery of housing to meet local needs, green infrastructure enhancements, and the implementation of high quality design and layout which supports the quality of the public realm and promotes road safety. In addition, the Neighbourhood Plan has a strong focus on maintaining and enhancing the rural nature of the parish and protecting its environs and landscape character.

In relation to the ‘landscape and historic environment’ theme, the Neighbourhood Plan sets out a range of policy provisions for protecting landscape character and for conserving and enhancing the fabric and setting of the historic environment. However, even with these policy provisions, the proposed Neighbourhood Plan allocation and reserve allocations are likely to lead to inevitable significant effects on landscape character. This is given the scale of the allocations as major development, and the sensitivity of the landscape of the South Devon AONB.

The current version of the Malborough Neighbourhood Plan will initiate a number of beneficial approaches regarding the ‘biodiversity’, and ‘climate change’ sustainability themes. However, these are not considered to be significant in the context of the SEA process given the scope of the Neighbourhood Plan and the scale of proposals.”

4.11.1.6 I am now satisfied that the SEA has assessed the impact of the Malborough Neighbourhood plan and its policies on the Historic and Natural environment, particularly the South Devon AONB.

4.11.2 Sustainable development

4.11.2.1 The Malborough Neighbourhood Plan has addressed the issue of sustainable development in the Basic Conditions Statement. My conclusion is that the principles of Sustainable Development required in the NPPF have been taken into account in the development of the plan and its policies and where issues have been identified they were addressed by revisions to the document prior to submission. I am satisfied that the Malborough Neighbourhood Plan subject to the recommended modifications addresses the sustainability issues adequately.

4.11.2.2 The Neighbourhood Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.

4.11.2.3 I am satisfied that the Malborough Neighbourhood Plan has done so.

4.11.2.4 I am therefore satisfied that the Malborough Neighbourhood Plan meets the basic conditions on EU obligations.

4.11.3 Excluded development

4.11.3.1 I am satisfied that the Malborough Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.

4.11.4 Development and use of land

4.11.4.1 I am satisfied that the Malborough Neighbourhood Plan, subject to modification covers development and land use matters.

4.12. The Neighbourhood Plan Vision, Strategic Aims and Policies

General Comments

4.12.1 The format of the policy section of the plan is confusing. It gives more prominence to the objectives than the policies themselves and the objectives are in themselves worded like policies. Neighbourhood planning guidance is clear:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

4.12.2 RECOMMENDATION

The plan should be reformatted to ensure that the policies are clearly identifiable, and that policy context and justification are clearly separated from the policies

4.12.4 A neighbourhood plan should support the strategic development needs set out in the Local Plan and plan positively to support local development (as outlined in paragraph 16 of the National Planning Policy Framework).

4.12.5 A neighbourhood plan can be used to address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan comes into force as part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see section 38(6) of the Planning and Compulsory Purchase Act 2004).

4.12.6 Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but

actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.

4.12.7 If the policies and proposals are to be implemented as the community intended a neighbourhood plan needs to be deliverable. The National Planning Policy Framework requires that the sites and the scale of development identified in a plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.

4.12.8 A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

4.12.9 The resulting draft neighbourhood plan must meet the basic conditions if it is to proceed. National planning policy states that it should support the strategic development needs set out in the Local Plan, plan positively to support local development and should not promote less development than set out in the Local Plan or undermine its strategic policies (see paragraph 16 and paragraph 184 of the National Planning Policy Framework). Nor should it be used to constrain the delivery of a strategic site allocated for development in the Local Plan.

4.12.10 Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.

4.12.11 In order to provide clarity and to ensure that the policies in the Malborough Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies.

4.12.12 For ease of reference, in this section the proposed Malborough Neighbourhood Plan policies are in black, my comments are in blue and any proposed modifications are in red, I have underlined new text and used strike through to indicate text which should be removed.

4.13 Malborough Neighbourhood Plan Policies

Vision Statement

I am satisfied that the vision and objectives were identified from the consultation carried out with the community.

RECOMMENDATION

The Vision included within the Executive Summary on page 4 of the Plan should also be included at the beginning of the policy section of the Plan.

Objective HD1. To encourage, facilitate and integrate a steady stream and mix of new 'principal residence' housing (affordable, social and market) to meet evidenced needs of local people over the next twenty years. This new housing should be of a type and size that meets the changing local needs of residents over their lifetimes. This plan targets a minimum of 63 new homes being built in the Parish between 2014 and 2034.

Policy 1

Planning for growth:

- **the development of small scale purpose built affordable housing is preferred**
- **the advent of larger sites for development will be considered and,**
- **both will be permitted provided that the proposals would not prejudice the objective of creating a balanced community and there is a demonstrable need for this housing for Malborough residents**

COMMENT

A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared. Policy 1 lacks clarity and does not take adequate account of the landscape sensitivity, as the Parish of Malborough lies within the South Devon AONB. It is also unclear what this adds to other policies within the plan. If retained, for clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy 1 Planning for growth:

- **Subject to demonstrable local housing need the development of small scale purpose built affordable housing is preferred will be supported.**
- **~~the advent of larger sites for development will be considered will be supported provided that the proposals are in conformity with policies protecting the AONB, would not prejudice the objective of creating a balanced community and there is a demonstrable need for this housing for Malborough residents and,~~**
- **~~both will be permitted provided that the proposals would not prejudice the objective of creating a balanced community and there is a demonstrable need for this housing for Malborough residents~~**

Policy 2 Community Balance

All new residential development should maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities in Malborough's Neighbourhood Plan area. Additionally, Planning applications for 5 or

more homes should:

Address affordable housing need and housing demand in line with evidenced need, noting that this Plan is targeting (aspiring to) 50% affordable housing (unless the viability of the site – as validated in an open book process – can be proven otherwise)

- **Contribute to the diversity (size, type & tenure) of housing in the local area and help to redress any housing imbalance that exists**
- **Demonstrate how chosen design solutions promote strong communities and,**
- **Enable future flexibility and adaptability by meeting appropriate space standards (The Local Plan defines this).**

COMMENT

I have no comment on this policy.

Policy 3 Local Allocation Policy:

- **All new affordable housing stock will be ring-fenced for local need only - where that need falls within the identified A-E eligibility criteria**
- **The SHDC Local Allocation Policy 4 should be used to help inform and assess need but those with a local connection to Malborough, irrespective of the need band, are required to be homed before the houses are offered up to a wider catchment i.e.: LOCAL applicants falling within Band E will be prioritised above those with a higher identified need from outside the local area and,**
- **If properties remain vacant after ALL local need is met (i.e. Band E inclusive) the catchment can then be rolled/cascaded out from Malborough i.e. prioritising those that live in villages/hamlets closest to the Parish of Malborough before opening up the new stock to a wider catchment.**

COMMENT

The policy note should be deleted from the policy.

Policy 4 Principal Residence Restriction:

- New open market housing, excluding replacement dwellings, will only be supported where there is a restriction to ensure its occupancy as a Principal Residence. Principal Residences are defined as those occupied as the residents' sole or main residence, where the residents spend the majority of their time when not working away from home. The condition or obligation on new open market homes will require that they are occupied only as the primary (principal) residence of those persons entitled to occupy them
- New unrestricted second homes will not be supported at any time and,
- Occupiers of homes with a Principal Residence condition will be required to keep proof that they are meeting the obligation or condition.

COMMENT

Evidence was put forward in the body of the plan and supporting evidence to explain why the community feel that a principal residency occupancy restriction policy is the right response to the situation within the parish regarding increasing second home ownership. This evidence clearly set out the obvious pressure on adjoining parishes but was less clear regarding the situation within Malborough Parish itself. I requested clarification on this issue and the QB were able to provide an addendum to support their policy. This addendum is available on the South Hams District Council website. This addendum states that in 2011 28% of the homes in the parish had no permanent residents and that since that time the evidence points to the figure currently exceeding 30%.

I have considered the policy in terms of the Basic Conditions and particularly achieving sustainable development. I am satisfied that the information presented provides adequate evidence to support the contention that ongoing unrestricted open market housing development will have a negative impact upon the community and the affordability of dwellings for full time occupation and therefore its long-term sustainability. I therefore conclude that the policy does meet the Basic Conditions.

Policy 5 Change of Use/Level of Occupancy:

The sub-division of dwellings into smaller, self-contained units or the change of use of residential premises to houses in multiple occupation will be supported provided that:

- the proposal does not have an adverse impact on the character of the building or its surroundings and there is no unacceptable impact on residential amenity
- the proposal would not cause unacceptable highway problems and,
- the proposal would not result in an over concentration of dwellings in any one area of the Parish i.e.: we want a development density that would not change the character of the area or undermine the maintenance of a balanced and mixed local community.

COMMENT

I have no comment on this policy.

Policy 6 Delivery:

This Plan has identified an indicative level of growth and has identified a minimum housing target to be delivered over the life of the Plan. Actual growth & performance against build/new homes target will be reviewed

(by Malborough Parish Council) every five years throughout the life of the Plan to re-assess local housing need. If there was demonstrable, unmet need or where our preferred site has not delivered what we need it to, this would trigger the release of a reserve site. Which site was finally allocated after a review would depend on updated site assessments and an options' appraisal at the time.

COMMENT

This is not a policy and should be deleted from this section of the plan. It could be included in a different section of the plan.

Objective HD2 BUILDING BY DESIGN. New build schemes will insist on high quality design that sit comfortably with, and respond to, local surroundings, the landscape and existing buildings. Development must protect and enhance the quality of the local environment. To ensure new development, especially that intended for family occupation, includes ample garden areas, to serve the future residents and to reflect the current character of the area. To ensure that new builds form safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

Policy 7 High quality design:

All new development within Malborough must demonstrate high quality design. This means responding to and integrating with local surroundings and landscape context as well as the existing built environment. Here the Plan seeks to provide design reference points so that new builds can respond to some of the idiosyncrasies of the village that make it unique. The following layout characteristics could influence the shape of development proposals:

- **Narrow lanes – the centre of the village has a number of narrow streets onto which the buildings of the village front and are accessed in different ways**
- **Burgage5 plots – many properties in the core are set within**

historic burgage plots that are characterised by being long and narrow and are often perpendicular to the main streets

- **Houses with front gardens – whilst houses front the streets in a variety of ways some are set back from the principal building line in front gardens. This can provide a green break in the form of the street**
- **Courtyards – there are a number of courtyard developments formed by a grouping of former agricultural buildings but now occupied as homes**
- **Glimpse views – there are several places in the villages where glimpse views can be enjoyed of other parts of the village or the wider countryside**
- **Housing types – the village has different housing types including detached, semi-detached and terraced homes of very different shapes and sizes**
- **Terraces – there are some small groups of terraces houses but generally these do not tend to be long terraces of the same house type as might be found more commonly in towns**
- **Gardens – Gardens vary in shape and size but are mostly at the rear. Some gardens in the centre of the village are relatively large and provide a significant green break and landscape feature**
- **Hedgerows – are a common boundary treatment in the core of the village and further reinforcing the mature greening of Malborough**
- **Trees and vegetation – the built fabric of the village combines with mature trees and vegetation to contribute towards the overall townscape composition**
- **Whilst there are some significant trees and tree groups in the core of the village, vegetation increases towards the edges ensuring the built form visually feathers into the surrounding Devon**

countryside.

So, in Malborough high quality design means:

- **achieving high quality design that respects the scale and character of existing and surrounding buildings. Design should integrate with, and respond to, local surroundings, the landscape and existing buildings. All development should recognise, protect and promote what makes Malborough special.**
- **proposals which are supported by a thorough landscape and visual appraisal of the site to determine impact on local views and the appearance of the village itself: Given all development is within an AONB new proposals should retain and maximise all neighbours' views and the views of existing houses. Where a site is sloping this will help. There is an absolute limit on all new dwellings having a maximum of 2 floors. (Note: due to years of independent development within the Parish some existing housing stock may be higher than 2 floors. This is not a typical or accepted 'built form' within the village and only new build proposals of 2 floors or less will be supported in this Plan)**
- **there should be diversity in design (mixed design) but around a common, unifying and harmonious scheme. Houses can be diverse in shape or style yet combine to create a community identity. In larger developments (5+ houses) housing clusters or pockets around shared courtyards should be considered, breaking up the lines of development (multiple rows of terraced houses are not acceptable) and 'sitting well' within any plot and/or adding to an established rhythm to the architecture in any road/lane if appropriate**
- **in any larger development (5+) the site should be integrated i.e.: it should not be split into 'them and us' areas with respect to the affordable and market rate dwellings**
- **high standards of sustainable design and construction need to be**

achieved which respond to the identified landscape and heritage values of the site; we seek innovation to achieve low carbon sustainable design adopting the principles of sustainable drainage

- new builds should reflect an understanding of the materials, tones, colours and textures that form the built and landscape palette that is distinctive to Malborough
- high quality design should provide sufficient external amenity space, refuse and recycling storage and car and bicycle parking to ensure a high quality and well managed streetscape:
 - o each dwelling should have an allocated 2 parking spaces, and these should be near to/within easy access of the property. Parking should not block the streets. The parking spaces (and garages) need to remain, in perpetuity, with the property and should not be allowed to
 - o be sold off
 - o each dwelling should have a dedicated outdoor space/garden. Gardens should be accessible from the access road/front of the house and not just through the house and,
 - o provision should be made for the storage of recycling bins for those properties without garages
- well-designed streetscapes are required; ones that encourage connection,
- understanding and community spirit among residents. Shared outdoor space is key to foster community spirit. The emphasis should be put firmly on pedestrian movement and not the car, making the street a place for people rather than just a transport corridor and,
- proposals which provide for additional and landscaped provision for visitor, works vehicles and community parking will be encouraged.

ASPIRATIONS re. High Quality Design:

- **The Plan encourages the use of good quality materials, locally sourced where possible (Tavistock stone for example), that complement this existing palette of materials and colours accepting that there will be trade-offs between this localism of supply and the viability of any affordable housing schemes.**
- **New builds are encouraged to meet the requirements of ‘Secure by Design’ in conjunction with the attributes of Crime Prevention through Environmental Design (CPTED), as follows, to minimise the likelihood and fear of crime, antisocial behaviour and conflict:**

o Access and movement: new designs should include clearly defined and accessible routes through with spaces and entrances that provide for convenient movement without compromising security

o Structure: developments are structured so that different uses do not cause conflict

o Surveillance: all publicly accessible spaces in new developments should be overlooked

o Ownership: designs should promote a sense of ownership, respect, territorial responsibility and community

o Physical protection: new builds should include necessary, well-designed security features

o Activity: designs should ensure that the level of human activity is appropriate to the location and create a reduced risk of crime and a sense of safety at all times

o Management and maintenance: developments are designed with management and maintenance in mind, to discourage crime in the present and the future.

COMMENT

This policy is long and confusing. It lacks clarity, mixes context within the policy and includes unnecessary repetition. In some areas the policy is overly restrictive. The context sections should be deleted from the policy. The design characteristics should be removed from the policy and put in the context/justification section. For clarity and to meet the Basic Conditions the policy should be modified as follows, although reference to concerns regarding development that exceeds two storeys could be included in the context of the policy:

Policy 7 High quality design:

All new development within Malborough must demonstrate high quality design. This means responding to and integrating with local surroundings and landscape context as well as the existing built environment. ~~Here the Plan seeks to provide design reference points so that new builds can respond to some of the idiosyncrasies of the village that make it unique. The following layout characteristics could influence the shape of development proposals:~~ Development proposals should:

- ~~• Narrow lanes – the centre of the village has a number of narrow streets onto which the buildings of the village front and are accessed in different ways~~
- ~~• Burgage plots – many properties in the core are set within historic burgage plots that are characterised by being long and narrow and are often perpendicular to the main streets~~
- ~~• Houses with front gardens – whilst houses front the streets in a variety of ways some are set back from the principal building line in front gardens. This can provide a green break in the form of the street~~
- ~~• Courtyards – there are a number of courtyard developments formed by a grouping of former agricultural buildings but now occupied as homes~~

- ~~Glimpse views — there are several places in the villages where glimpse views can be enjoyed of other parts of the village or the wider countryside~~
- ~~Housing types — the village has different housing types including detached, semi-detached and terraced homes of very different shapes and sizes~~
- ~~Terraces — there are some small groups of terraces houses but generally these do not tend to be long terraces of the same house type as might be found more commonly in towns~~
- ~~Gardens — Gardens vary in shape and size but are mostly at the rear. Some gardens in the centre of the village are relatively large and provide a significant green break and landscape feature~~
- ~~Hedgerows — are a common boundary treatment in the core of the village and further reinforcing the mature greening of Malborough~~
- ~~Trees and vegetation — the built fabric of the village combines with mature trees and vegetation to contribute towards the overall townscape composition~~
- ~~Whilst there are some significant trees and tree groups in the core of the village, vegetation increases towards the edges ensuring the built form visually feathers into the surrounding Devon countryside.~~

~~So in Malborough high quality design means:~~

- ~~achieving high quality design that respects reflect the scale and character of existing and surrounding buildings.~~
- ~~Design should integrate with, and respond to, local surroundings, the landscape and existing buildings.~~
- ~~All development should recognise, protect and promote what makes Malborough special.~~
- ~~Where necessary proposals which are be supported by a~~

thorough landscape and visual appraisal of the site to determine impact on local views and the appearance of the village itself:

- Only in exceptional circumstances exceed 2 stories ~~Given all development is within an AONB new proposals should retain and maximise all neighbours' views and the views of existing houses. Where a site is sloping this will help. There is an absolute limit on all new dwellings having a maximum of 2 floors. (Note: due to years of independent development within the Parish some existing housing stock may be higher than 2 floors. This is not a typical or accepted 'built form' within the village and only new build proposals of 2 floors or less will be supported in this Plan)~~
- ~~there should be diversity in design (mixed design) but around a common, unifying and harmonious scheme~~ but remaining locally distinctive, ~~The Plan encourages the use of using good quality materials, locally sourced where possible (Tavistock stone for example), that reflect complement this the existing palette of materials and colours. accepting that there will be trade-offs between this localism of supply and the viability of any affordable housing schemes.~~
- In larger developments (5+ houses) housing clusters or pockets around shared courtyards should be considered, breaking up the lines of development (multiple rows of terraced houses are not acceptable) and 'sitting well' within any plot and/or adding to an established rhythm to the architecture in any road/lane if appropriate
- ~~in any larger development (5+) the site should be integrated i.e.: it should not be split into 'them and us' areas with respect to the affordable and market rate dwellings~~ for developments which include affordable housing be designed so that the open market and affordable units are indistinguishable
- seek to achieve high standards of sustainable design and construction need to be achieved which respond to the identified landscape and heritage values of the site; we seek innovation to

~~achieve low carbon sustainable design adopting~~

- ~~include the principles of sustainable drainage wherever possible~~
- ~~new builds should reflect an understanding of the materials, the tones, colours and textures that form the built and landscape palette that is distinctive to Malborough~~
- ~~high quality design should provide sufficient external amenity space, refuse and recycling storage and car and bicycle parking to ensure a high quality and well managed streetscape:~~
- ~~dwelling should have sufficient an allocated 2 parking spaces to meet adopted parking standards and these should be near to/within easy access of the property. On street parking should be avoided Parking should not block the streets. The parking spaces (and garages) need to remain, in perpetuity, with the property and should not be allowed to be sold off~~ Proposals which provide for additional and landscaped provision for visitor, works vehicles and community parking will be encouraged.
- ~~each dwelling should have where appropriate and viable a dedicated outdoor space/garden. Wherever possible gardens should be accessible from the access road/front of the house and not just through the house and,~~
- ~~make provision should be made for the storage of recycling bins for those properties without garages~~
- ~~provide well-designed streetscapes are required; that are not car dominated and make provision for community space where possible. encourage connection, communi-~~
- ~~understanding and community spirit among residents. Shared outdoor space is key to foster community spirit. The emphasis should be put firmly on pedestrian movement and not the car, making the street a place for people rather than just a transport corridor and,~~

~~ASPIRATIONS re. High Quality Design:~~

- ~~New builds are encouraged to meet the requirements of 'Secure~~

~~by Design' in conjunction with the attributes of Crime Prevention through Environmental Design (CPTED), as follows, to minimise the likelihood and fear of crime, antisocial behaviour and conflict:~~

- ~~• Access and movement: new designs should include clearly defined and accessible routes through with spaces and entrances that provide for convenient movement without compromising security~~
- ~~• Structure: developments are structured so that different uses do not cause conflict~~
- ~~• Surveillance: all publicly accessible spaces in new developments should be overlooked~~
- ~~• Ownership: designs should promote a sense of ownership, respect, territorial responsibility and community~~
- ~~• Physical protection: new builds should include necessary, well-designed security features~~
- ~~• Activity: designs should ensure that the level of human activity is appropriate to the location and create a reduced risk of crime and a sense of safety at all times~~
- ~~• Management and maintenance: developments are designed with management and maintenance in mind, to discourage crime in the present and the future.~~

Policy 8 Retail and Commercial Frontages including new employment units:

- new or renovated shop frontages should be of a high-quality design (cross-ref Policy 7) and, where possible, improve the character of their local environment
- the design of frontages should complement the architectural design of the rest of the building where that building has historic or architectural merit and,
- signs for shop fronts should be well-designed at a suitable scale and if illuminated should be lit appropriately and discreetly

COMMENT

I have no comment on this policy.

Objective HD3 Supporting community housing: To encourage co-housing and community development providing long term affordability is secured.

Policy 9 Supporting community housing:

Community Housing MAY be permitted adjoining the existing development boundary of Malborough Village on sites where development would not otherwise be permitted providing the development meets or exceeds all policies included in this Plan and where:

- the development provides collective land ownership and shared management responsibility
- the land is held in trust as a community asset in perpetuity and,
- housing costs are made affordable by reference to capital costs, or rent, being no more than 80% (or as subsequently determined in the Joint Local Plan) of open market value and such discount is protected through succession.

COMMENT

Whilst I acknowledge the importance of this issue to the community, policies in neighbourhood plans must relate to land use, not how land is owned or managed. As much of this policy relates to collective land ownership it does not meet the Basic Conditions and should be modified as follows and deleted elements could be included within community projects/aspirations section of the Plan:

Policy 9 Supporting ~~community~~ housing for the community:

~~Community~~ Housing MAY be permitted adjoining the existing

development boundary of Malborough Village on sites where development would not otherwise be permitted providing the development meets in full or exceeds the requirements of national and development plan policy in respect of exception sites, all policies included in this Plan and where:

- ~~• the development provides collective land ownership and shared management responsibility~~
- ~~• the land is held in trust as a community asset in perpetuity and,~~
- ~~• housing costs are made affordable by reference to capital costs, or rent, being no more than 80% (or as subsequently determined in the Joint Local Plan) of open market value and such discount is protected through succession.~~

Objective HD4 to identify sites to promote this development and provide detail on type, appearance, number and scheduling of development.

Policy 10 Allocation:

The PORTLEMORE DOWNS site is allocated within this Neighbourhood Plan for a minimum of 16 Affordable Housing dwellings subject to the development conforming to the policies contained in this Neighbourhood Plan and the SHDC core strategy and subject to complying with ALL of the following site-specific conditions, policies 8 - 12 inclusive.

COMMENT

Planning permission has already been granted for this site under application 0549/17/OPA with the Reserved Matters application currently before South Hams District Council, therefore this policy should be deleted. The associated text within the plan should also be deleted.

Policy 11

- the development should provide a minimum of 16 affordable homes

- 50% of the development should fulfil the affordable housing criteria
- the developer should consider the supply of small, serviced plots for sale on the site for self-build and,
- the build must respect, reinforce and where possible enhance the character and quality of Malborough at a density which sits comfortably within the landscape. This Plan considers that a maximum of 49 homes can be accommodated on this site. The build should offer ample open and green spaces commensurate with its setting on a south facing hillside within an AONB.

COMMENT

Please see my comments on policy 10. As permission has already been granted for this site this policy is no longer relevant and should be deleted.

Policy 12 Type:

- the development, which will provide a minimum of 16 affordable homes, should include 14 one to two bedroomed properties (including a minimum of 6 x 2 bedroomed units)
- level access apartments and bungalows in both the affordable and market sectors should be provided
- the development should provide a minimum of 12 affordable properties for rent.

COMMENT

Please see my comments on policy 10. As permission has already been granted for this site this policy is no longer relevant and should be deleted.

Policy13 Access & Integration:

- **vehicular access to the site will only be from Portlemore Lane. This needs to be widened to facilitate access and the visibility splay needs to be improved**
- **the access road through the development should be part of the living space and a common area for the community, equal to the amenity spaces and footpaths. Through effective design the street must be genuinely pedestrian friendly and where worries about personal safety or that of small children are alleviated. It should be twisted so the road itself is not a racetrack**
- **good pedestrian access should be provided and available to the playground,**
- **Malborough Park, Jubilee Park and the Portlemore Lane footpath**
- **where such access already exists, this should be upgraded and enhanced and,**
- **access to other parts of the village should be freely available and not restricted.**

COMMENT

Please see my comment on policy 10. As permission has already been granted for this site this policy is no longer relevant and should be deleted.

Policy 14 Amenity Land and Community Facilities:

There are generic site conditions within the Malborough Neighbourhood Plan. To help deliver these the allocation of this Portlemore Downs site requires that:

- **section 106/Community Infrastructure levies due to the Parish (after allowing**

for statutory stakeholder requirements etc.) are set against named projects identified and prioritized by the Parish. These projects should be at the discretion of the Parish and the Section 106/CIL monies may be spent on any named infrastructure project. i.e.: the monies should NOT be ring fenced for outdoor spaces and sport facilities - although these may form future Parish priorities - and, in this instance,

- a children's playground should be provided
- provision should be made, on site or adjacent to, for an off lead, safe and
- secure dog exercise area accessible to all dog owners within the Parish
- an area should be identified to provide a Community orchard
- outdoor spaces should be safe for children
- a wildlife corridor/strip to conserve and enhance the biodiversity of the site should be established and,
- robust management plans/structure are required for the development.

COMMENT

Please see my comments on policy 10. As permission has already been granted for this site this policy is no longer relevant and should be deleted.

Policy 15 Reserve Site allocation - FIELD BEHIND CHURCH, WITHYMORE FARM:

The field behind the Church, Withymore Farm, as shown on the map below, is allocated as a RESERVE site within this Plan for LOCAL (Ref: footnote 2) need.

COMMENT

As previously stated the Parish of Malborough lies within the South

Devon Area of Outstanding Beauty (AONB). The revised SEA is clear that development of this site has the potential to have significant negative impact on the AONB and in turn the NPPF clearly sets out the high bar that development proposals must reach in order for development in this most sensitive of landscapes to be acceptable. My conclusion, having considered these issues carefully is that policy 15 should be deleted.

Policy 16 Custom & Self Build (C&SB) GREAT PARK (part of):

This Plan allocates GREAT PARK (part of, as shown on the map below) as an EXCEPTION SITE providing land suitable for affordable housing that will be secured in perpetuity. A Community Land Trust (CLT) will be set up and will, initially, take ownership of the land. Through the CLT the community will be integrally involved throughout.

- **This allocation requires that the objective of any emerging CLT will be to develop 100% affordable housing to enable young, and local, families to live and work in our village and make our community more sustainable**

Initially the CLT will:

- **determine a coherent design scheme for the site to ensure a certain amount of consistency is achieved by the individual dwellings**
- **finance & commission the servicing of all plots and, ensure adequate highways access is secured to all plots. Subsequently the CLT will:**
- **take a long-term formal role in the ownership, stewardship or management of the homes**
- **in Phase 1 it will release serviced plots for C&SB housing – multiple dwellings**
 - **subject to demand and:**

- o a condition that restricts the occupancy to people with a local connection in perpetuity
- o a pre-emption agreement that gives Malborough's CLT first refusal to reacquire or nominate a purchaser when one of the homes is sold
- o the imposition of a resale price covenant on any freehold sold for C&SB. This limiting the resale price of the homes to a maximum of 31.3% of their open market value.
- o a condition that requires people to live in the property (as their primary residence) once it is complete and
- o a restriction to prevent any individual or company from buying more than a single plot
 - in Phase 2 the CLT will look to work with the Homes & Communities Agency (HCA)/Provider Agencies to develop the balance of the allocated site to provide 100% affordable housing available for social rent and/or shared equity. Again, any freehold sale will have a resale price covenant and local occupancy and primary home restrictions plus a pre-emption agreement as above.

COMMENT

Whilst I acknowledge the importance of this issue to the community, policies in neighbourhood plans must relate to land use, not how land is owned or managed. This policy mixes policy context within the policy and is confusing. Neighbourhood plans can allocate Exception Sites but cannot require it to be developed by a community land trust. The Community Land Trust element is a community aspiration and should

be moved to a separate section of the plan. As previously stated the Parish of Malborough lies within the South Devon Area of Outstanding Beauty (AONB). The revised SEA is clear that development of this site has the potential to have significant negative impact on the AONB and in turn the NPPF clearly sets out the high bar that development proposals must reach in order for development in this most sensitive of landscapes to be acceptable. My conclusion, having considered these issues carefully is that policy 15 should be deleted and policy 16 should be modified as follows:

Policy 16 GREAT PARK (part of):

GREAT PARK (part of, as shown on the map below) is allocated will be supported as a Rural Exception Site providing affordable housing, land suitable for affordable housing to meet identified local housing need that will be secured in perpetuity subject to it meeting the requirements of the NPPF providing and other relevant policies of the development plan.

The development of the site by a Community Land Trust (CLT) is strongly supported.

GREEN ISSUES / SUSTAINABILITY IN DESIGN

Objective G1 All new development (including extension, refurbishment or change of use schemes of existing buildings that require Planning permission) should be energy efficient and sustainable.

Policy 17 Adapting to climate change

New development and consequential improvements policy (Residential)

- all development within Malborough should seek to achieve high standards of sustainable development
- all renovation, development, change of use or other changes requiring planning permission of existing dwellings must

demonstrate a consequential improvement in energy efficiency and,

- in particular developers must demonstrate in proposals how design, construction and operation have sought to:

i) reduce the use of fossil fuels

ii) promote the efficient use of natural resources, the re-use and recycling of resources, and the production and consumption of renewable energy

iii) adopt and facilitate the flexible development of low and zero carbon energy through a range of technologies

iv) link the provision of low and zero carbon energy infrastructure in new developments to existing buildings and,

v) adopt best practice in sustainable drainage.

COMMENT

The policy as worded is too restrictive. For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy 17 Adapting to climate change

~~New development and consequential improvements policy (Residential)~~

- ~~all~~ New residential development within Malborough should seek to achieve high standards of sustainable development
- all renovation, development, change of use or other changes requiring planning permission of existing dwellings should seek to must demonstrate a consequential improvement in energy efficiency and,

~~Development proposals should~~ where appropriate developers are encouraged to ~~must~~ demonstrate in proposals how design, construction

and operation have sought to:

- **reduce the use of fossil fuels**
- **promote the efficient use of natural resources, the re-use and recycling of resources, and the production and consumption of renewable energy**
- **adopt and facilitate the flexible development of low and zero carbon energy through a range of technologies**
- **link the provision of low and zero carbon energy infrastructure in new developments to existing buildings and,**
- **adopt best practice in sustainable drainage.**

Policy 18 Adapting to climate change: new development and consequential improvements policy (Non-Domestic)

o All new non-domestic buildings should adopt a ‘fabric first’ approach to building design. This involves maximising the performance of the components and materials that make up the building fabric itself, before considering the use of mechanical or electrical building services systems

- **all new non-domestic buildings should consider a solar PV installation on their roofs**
- **where a developer is unable to deliver the solar PV installation, they need to demonstrate that they have worked in detail with a 3rd party (commercial or community) to assess the opportunity and,**
- **where the opportunity is not currently viable due to market conditions, the developer must ensure that the roof is built to a standard that could accommodate PV in the future.**

COMMENT

The policy as worded is too restrictive. For Clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy 18 Adapting to climate change: (Non-Domestic)

All new non-domestic buildings are encouraged to adopt a 'fabric first' approach to building design. This involves maximising the performance of the components and materials that make up the building fabric itself, before considering the use of mechanical or electrical building services systems

- all new non-domestic buildings should consider a solar PV installation on their roofs ~~(exploring the opportunity where a developer is unable to deliver the solar PV installation, they need to demonstrate that they have worked in detail with a 3rd party (commercial or community) to assess the opportunity and,~~
- where the opportunity is not currently viable due to market conditions, the developer is encouraged to ensure that the roof is built to a standard that could accommodate PV in the future.

Policy 19 Retrofitting historic/listed buildings:

The sensitive retrofitting of energy efficiency measures and the appropriate use of micro-renewables in historic buildings will be encouraged, including the retrofitting of listed buildings, buildings of solid wall or traditional construction and buildings within conservation areas, whilst safeguarding the special characteristics of these heritage assets for the future. Historic buildings should be retrofitted in line with current guidance from Historic England.

COMMENT

For clarity and to meet the Basic Conditions the policy should be

modified as follows:

Policy 19 Retrofitting historic/listed buildings:

Subject to meeting the requirements of the National Planning Policy Framework and the relevant development plan policies the sensitive retrofitting of energy efficiency measures and the appropriate use of micro-renewables in historic buildings will be encouraged, including the retrofitting of listed buildings, buildings of solid wall or traditional construction and buildings within conservation areas, whilst safeguarding the special characteristics of these heritage assets for the future. Historic buildings should be retrofitted in line with current guidance from Historic England.

Policy 20 Dark Skies Policy:

Malborough wishes to work towards a dark skies zone. As a rural parish it believes it is currently ‘intrinsically dark’ and therefore deserves protection.

- **All new and re-development must demonstrate how they plan to minimise light pollution. Information on such measures should be submitted with applications. Developments must be designed to minimise the advent of light pollution as well as being energy efficient.**

COMMENT

For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy 20 Dark Skies Policy:

Malborough wishes to work towards a dark skies zone. As a rural parish it believes it is currently ‘intrinsically dark’ and therefore deserves protection.

- **Where appropriate all new development and re-development must should demonstrate how they plan to minimise light pollution. Information on such measures should be submitted with applications. Developments must should be designed to minimise the advent of light pollution as well as being energy efficient.**

Objective G2

That all proposals for new housing will be required to demonstrate provision of appropriate new facilities on site and provision of, or contributions to, off-site facilities.

Policy 21 South West Water:

Any developer is required to provide sight of the consultation response from SWW. SWW, as a statutory consultee, must ensure that the additional demands made by the new build on the existing SWW network can be accommodated (to include sewerage, water and drainage issues).

COMMENT

This cannot be a requirement and is not a policy. To meet the Basic Conditions, it should be deleted from the policy section but could be included within the body of the plan.

Objective G3

Become a greener, more self-reliant & sustainable Parish

Policy 22 Support for Small Scale Renewables & Low Carbon Energy Schemes:

Planning applications will be supported for energy generating infrastructure using renewable or low carbon energy sources to serve individual properties or groups of properties in settlements and

countryside locations provided that their impacts are (or can be made) acceptable or where adverse impacts are outweighed by the overall benefits of the proposal. Any proposal should be commensurate in size with the catchment it proposes to serve. Community led renewable energy schemes will be encouraged.

This policy specifically, and currently, excludes applications for wind turbines (this will be kept under review and may change if local attitudes change).

The following considerations will be taken into account in assessing proposals:

- **visual impact in the immediate locality and the wider area**
- **the amenity of nearby houses**
- **local landscape and countryside**
- **highway safety and traffic generation and,**
- **sites of local nature conservation and heritage assets.**

Proposals for installations will need to include specific assessments related to these criteria and to consider the cumulative impacts.

COMMENT

I have no comment on this policy

OPEN SPACES, THE ENVIRONMENT, HERITAGE & COMMUNITY FACILITIES

Objective OE1

Secure and protect the rural nature of the Parish, protecting its environs and landscapes in perpetuity.

Policy 23 Siting of Development:

- **larger pockets of development (defined as 5+ houses for the**

purpose of this Plan) should be associated with the village of Malborough itself.

Context: Malborough is, and should stay, a village. This ‘village feel’ and sense of community is prized by residents

Furthermore, development in the open countryside of Malborough outside the existing settlement boundaries (such settlements to include our rural hamlets) will not be permitted unless specifically provided for by other policies in this Neighbourhood Plan and there is no significant detrimental effect on the character of the countryside by virtue of the proposed development’s siting, size and prominence in the landscape. i.e.: this Neighbourhood Plan provides for a presumption against development in the open countryside rather than the presumption in favour of sustainable development. These rural hamlets are named as: Soar, Bolberry, Combe, Rew, Collaton and Ilton

Ref: Wynn-Williams v Secretary of State for Communities and Local Government [2014] EWHC 3374: there is no automatic application of paragraph 14 of the NPPF

and,

- proposals to develop sites for individual dwellings, small infill and windfall sites for single affordable homes for local people or good quality private, individual & permanent residential development connected to existing settlements will be supported where they meet all other policy requirements in this plan**
- have a scale and form which would be complementary to surrounding properties and/or landscape and would not result in the loss of amenity for existing residents and,**
- would be accompanied by appropriate provisions for parking, access and storage of waste.**

COMMENT

This policy mixes policy and context, it also covers elements of design dealt with in other policies within the plan. For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy 23 Siting of Development:

~~Context: Malborough is, and should stay, a village. This ‘village feel’ and sense of community is prized by residents~~

~~Furthermore, Development in the open countryside of Malborough outside the existing settlement boundaries (such settlements to include our rural hamlets) will not be permitted unless specifically provided for by other policies in this Neighbourhood Plan and there is no significant detrimental effect on the character of the countryside by virtue of the proposed development’s siting, size and prominence in the landscape. i.e.: this Neighbourhood Plan provides for a presumption against development in the open countryside rather than the presumption in favour of sustainable development. These rural hamlets are named as: Soar, Bolberry, Combe, Rew, Collaton and Ilton.~~

~~Ref: Wynn-Williams v Secretary of State for Communities and Local Government [2014] EWHC 3374: there is no automatic application of paragraph 14 of the NPPF~~

Subject to the NPPF and other policies in the development plan:

- larger pockets of development (defined as 5+ houses for the purpose of this Plan) should be associated with the village of Malborough itself.
- proposals to develop sites for individual dwellings, small infill and windfall sites for single affordable homes for local people or good quality private, individual & permanent residential development connected to existing settlements will be supported where they meet all other policy requirements in this plan
- have a scale and form which would be complementary to

- ~~surrounding properties and/or landscape and would not result in the loss of amenity for existing residents and,~~
- ~~• would be accompanied by appropriate provisions for parking, access and storage of waste.~~

Policy 24 Heritage:

- development affecting heritage assets within Malborough must pay special regard to the need to conserve and enhance their settings and any special architectural or historic features of significance and,
- they should be accompanied by an appropriate heritage assessment and include measures which will mitigate or compensate for the loss of any heritage values identified.

COMMENT

The policy regime for the protection of designated and non designated heritage assets is covered at a national policy level. This policy is not consistent with existing policy. For clarity and in order to meet the Basic Conditions the policy should be modified as follows:

Policy 24 Heritage:

~~Development proposals affecting heritage assets within the Parish of Malborough must pay special regard to the need to conserve and enhance their settings and any special architectural or historic features of significance and, must comply with the requirements of national policy and relevant policies within the development plan. This includes they should be accompanied by an appropriate heritage assessment. and include measures which will mitigate or compensate for the loss of any heritage values identified.~~

Policy 25 Trees, Woodland, Hedgerows and Devon Banks

Development must retain and incorporate trees, woodland, hedgerows

and Devon banks which make a significant contribution to the character of the landscape, settlements, nature conservation, local amenity or environmental character of their surroundings.

COMMENT

I have no comment on this policy.

Policy 26 Biodiversity:

- proposals which result in a loss of biodiversity will not normally be permitted. Development that is likely to have either a direct or indirect adverse impact upon areas of local biodiversity importance should demonstrate that appropriate mitigation and/or compensation could be provided and where possible achieve a net enhancement to the biodiversity within the Parish
- proposals that would enhance the accessibility, understanding or enjoyment of the biodiversity assets of Malborough and its environs may be considered provided its distinctive character, biodiversity and recreational value is retained and there would be no harm to its special qualities including its wildlife habitats, corridors and any other features of ecological interest including those related to protected species. Where appropriate, development should also restore, conserve or enhance the biodiversity value of the area, for example through the incorporation of biodiversity features into buildings and landscape.

COMMENT

I have no comment on this policy.

Objective OE2

Identify land where development would be inappropriate and/or where it may be necessary to limit freedom to change the uses of land and/or

buildings

Policy 27 Local Green Space designations:

The Neighbourhood Plan designates the following locations as Local Green Spaces, as shown on the Proposals Map below and in accordance with paragraph 77 of the NPPF:

- **the Green/The Pound**
- **the Graveyards/Burial Ground**
- **Malborough Park Playground**
- **Village Hall Playing Field (registered as a QEII Field in Trust in perpetuity)**
- **Village Hall - Children's Play Area, Tennis Courts and Community Woods and,**
- **the Greens, Cumber Close**

COMMENT

Local Green Space designation is a “restrictive and significant policy designation” equivalent to Green Belt designation. It is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full.

Paragraph 77 of the NPPF:

“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), tranquility or richness of its wildlife; and**

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

In addition, the Local Green Space should be capable of enduring beyond the plan period and not be subject to a local plan allocation. Local Green Space designation will rarely be appropriate where the land has planning permission for development. Exceptions could be where the development would be compatible with the reasons for designation or where planning permission is no longer capable of being implemented.

Given that the Framework is not ambiguous in stating that a Local Green Space designation is not appropriate for most green areas or open space, it is entirely reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements.

My conclusion is that the proposed Local Green Spaces do meet the required tests.

Policy 28 Protection of green spaces:

- development that results in the loss of green spaces or that results in any harm to their character, setting, accessibility, appearance, general quality or amenity value would only be permitted in very special circumstances, for example, if it is essential to meet specific necessary utility infrastructure needs and no alternative feasible site is available and,
- if the community would gain equivalent benefit from the provision of suitable replacement green space or gain significant social, economic or environmental benefits from an alternative facility.

COMMENT

The protection of Local Green Spaces is set out within the NPPF and does not need to be repeated here. In addition, the NPPF does not allow for the replacement of a designated Local Green Space with an alternative. This policy should be deleted.

Policy 29 Gardens:

Accepting that Permitted Development (PD) Rights allow for some development, development in private gardens (to include conversion to car parking) falling outside PD rights will be permitted only where all of the following apply:

- there is no loss to the character, local amenity or environmental quality of the surroundings
- the site is served by a suitable existing highway on one or more boundaries;
- maintain a building to plot ratio representative of the surrounding plots and provide a useable amenity space for both the existing and additional building
- proper respect is given to the relationship between the building size and plot
- size, which should be in keeping with the character area
- the proportions of the new buildings are in keeping with the character of the
- area and,
- significant features, trees, stone walls, etc. are preserved and
- reconstructed/replaced where unavoidably affected by development.

COMMENT

This policy is entitled gardens but seems to deal with extensions to existing dwellings and the subdivision of plots. It is confusing and

overly restrictive. For clarity and in order to meet the Basic Conditions the policy should be renamed and modified as follows:

Policy 29 Gardens-Development within the curtilage of dwelling houses:

Where planning permission is required development within the curtilage of dwelling houses including new dwellings will only be supported where: only where all of the following apply:

~~•there is no loss to the character, local amenity or environmental quality of the surroundings~~ is protected

~~•the site is served by a suitable existing highway on one or more boundaries;~~

~~•maintain a building to plot ratio representative of the surrounding plots and provide a useable amenity space for both the existing and additional building~~

~~•proper respect is given to the relationship between the building size and plot size, which should be in keeping with the character area~~

~~•the proportions of the new buildings are in keeping with the character of the area and,~~

~~• significant features, trees, stone walls, etc. are preserved~~ retained where possible and reconstructed/replaced where unavoidably affected by development.

Objective OE3

Continue to grow both choice and provision of diverse and recreational activities to promote health and well-being for all ages with particular emphasis on the young and the elderly.

Policy 30 Community Benefit:

- all proposals for new housing will be required to demonstrate provision of appropriate new facilities on site and provision of, or contributions to, off-site facilities. Such investment, by way of Planning obligations, will go some way in mitigating the specific pressures brought about by, yet more, development within the Parish. Whilst applying to all new builds, this policy should be seen as proportionate and reflect the scale of development
- in any new development, Section 106/Community Infrastructure levies due to the Parish (after allowing for statutory stakeholder requirements etc.) will be set against named projects identified and prioritized by the Parish and,
- these projects should be at the discretion of the Parish and these monies may be spent on any named infrastructure project where there is evidenced and prioritized need. i.e.: the monies should NOT be ring fenced for outdoor spaces and sport facilities.

COMMENT

This paragraphs that relate to the priorities of the community re planning obligations are not policy and should be moved to a separate part of the document. For clarity and in order to meet the Basic Conditions the policy should be modified as follows:

Policy 30 Community Benefit:

- all proposals for new housing will be required to demonstrate provision of appropriate new facilities on site and provision of, or contributions to, off-site facilities to meet adopted standards. ~~Such investment, by way of Planning obligations, will go some way in mitigating the specific pressures brought about by, yet more, development within the Parish. Whilst applying to all new builds, this policy should be seen as proportionate and reflect the scale of development~~

- ~~in any new development, Section 106/Community Infrastructure levies due to the Parish (after allowing for statutory stakeholder requirements etc.) will be set against named projects identified and prioritized by the Parish and,~~
- ~~Proposals for new green space within developments should be~~ would be expected to designed to enhance the community enjoyment of the green space and contribute to an improvement to the character, accessibility, appearance and general quality or amenity value of the land through new planting, improvements to walls, paths and provision of features within the development and proportionate to the size of the development.
- ~~these projects should be at the discretion of the Parish and these monies may be spent on any named infrastructure project where there is evidenced and prioritized need. i.e.: the monies should NOT be ring fenced for outdoor spaces and sport facilities~~

Objective OE4

Any new development should reinforce the character and quality of Malborough

Policy 31

Proposals would be expected to enhance the community enjoyment of the green space and contribute to an improvement to the character, accessibility, appearance and general quality or amenity value of the land through new planting, improvements to walls, paths and provision of features within the development and proportionate to the size of the development.

COMMENT

It is unclear what green space this policy is intended to relate to. I have assumed that it relates to new green space within new developments. For clarity it should be combined with policy 30 as modified above.

EMPLOYMENT

Objective E1

Protect and support existing employment

Policy 32 Existing Employment Sites.

Existing employment sites should remain in employment use. They should be preserved for the continuing prosperity of the community, particularly where it will not interfere with residential amenity. Proposals which lead to the improvement, modernisation or upgrading of current employment sites will be welcomed and supported, subject to there being no adverse impacts on the community.

COMMENT

This policy does not have regard to the National Planning Policy Framework which prevents the protection of land for employment purposes where it is no longer viable. For clarity and in order to meet the Basic Conditions the policy should be modified as follows:

Policy 32 Existing Employment Sites.

Existing employment sites should remain in employment use unless it can be demonstrated that they are no longer viable. ~~They should be preserved for the continuing prosperity of the community, particularly where it will not interfere with residential amenity.~~ Proposals which lead to the improvement, modernisation or upgrading of current employment sites will be welcomed and supported, ~~subject to there being no adverse impacts on the community.~~ other policies in the development plan.

Policy 33 Short term parking for local businesses.

Proposals for the provision of well-located cycle and short term parking spaces to meet the needs of local business will be supported.

COMMENT

I have no comment on this policy

Objective E2

Protect the existing economic uses of buildings used by the general public (e.g.; shop, pubs and post office), support and promote their use.

Policy 34 Change of Use (agricultural).

The Plan acknowledges that Permitted Development Rights allow agricultural buildings to be put to a flexible commercial use. However, this Plan advises that proposals that seek to effect a change of use from agricultural to storage (Class B8) will be resisted as these remove future potential employment land from the pool and have an adverse effect on the community caused by increased traffic volumes and access issues.

COMMENT

For clarity and in order to meet the Basic Conditions the policy should be modified as follows:

Policy 34 Change of Use (agricultural).

~~The Plan acknowledges that Permitted Development Rights allow Where planning permission is required proposals agricultural buildings to be put to a flexible commercial use. However, this Plan advises that proposals that seek to effect a the change of use from agricultural to storage (Class B8) will be resisted as these remove future potential employment land from the pool and have an adverse effect on the community caused by increased traffic volumes and access issues.~~

Policy 35 Change of Use.

Proposals for redevelopment and change of use requiring planning permission (i.e. outside of Permitted Development Rights) will be

supported, subject to the following conditions:

- proposals for redevelopment or change of use of land or buildings in the Parish from retail as identified in use classes A1, A3, A4 and A5 of the Town and Country Planning (use classes) Order 1987 (as amended) to other business uses as identified in classes A2, B1, B2, B8 and C1 will only be permitted if the existing site is no longer economically viable and,
- the site has been marketed for freehold or leasehold at a reasonable price for at least a year without restriction.

COMMENT

I have no comment on this policy

Objective E3

Encourage low impact new employment opportunities

Policy 36 Employment and Enterprise

Proposals that meet the needs of the community, bringing new jobs to the Parish and enhance the character, viability or vitality of the area will be permitted provided that they would:

- not involve the loss of dwellings
- contribute to the character and vitality of the local area; responding well to its local context, reinforcing local distinctiveness and not detracting from the community
- be well integrated into and complement existing clusters of activity
- protect residential amenity
- not adversely impact upon road safety and,
- satisfy all noise abatement requirements

COMMENT

I have no comment on this policy.

Policy 37 Tourism

Proposals that bring forward land for use as high-quality small touring caravan and camping sites within the Parish will be encouraged as both these activities can help increase tourism revenue subject to these meeting the requirements of this Plan, as well as other relevant national and local Planning policies (where 'small' in this instance is defined as up to 20 pitches and 'high quality' is defined as family run, luxury sites).

COMMENT

I have received objection to this policy on the basis that it would be in conflict with the Adopted AONB Management Plan and that the LPA planning policy seeks to restrict the growth of new camping and caravanning sites within the AONB. I have concluded however on balance on the basis that any proposal is subject to a size restriction and would be subject to meeting the requirements of other policies within the development plan and NPPF, that the policy meets the Basic Conditions.

Policy 38

Conversely, the conversion of touring sites into more permanent sites – for lodges or additional static caravans, is not encouraged by the Plan and proposals for such are likely to be resisted as comprising “development creep”.

COMMENT

I have no comment on this policy.

Policy 39 Design of Employment Sites

Sustainable rural business and farm diversification initiatives will be

supported where these maintain or enhance the special qualities or distinctive landscape character of the AONB and contribute to employment and prosperity.

In addition:

- development must not exacerbate flooding and must deal satisfactorily with waste, emissions and effluent
- development should have no unduly adverse effect on residential amenity through noise, vibration, smell, smoke, dust, fumes, lighting, litter, traffic and other disturbance, including consideration of hours of operation and,
- buildings should not breach the ridge-line/sky-line and, where appropriate, should be cut into the land to minimise their visual impact

COMMENT

I have no comment on this policy

COMMUNICATIONS, INFRASTRUCTURE & TRANSPORT/GETTING AROUND

Objective CIT1

To ensure that all new development enhances access to, and future proofs, local services

Policy 40 Residential Streets & Access Roads

should be part of the living space and a common area for the community, equal to the amenity spaces and footpaths. Proposals to protect and mitigate against the impact of traffic within residential and community areas will be supported. Such proposals may include:

- traffic calming and gateway treatments to deter through traffic

- layout and arrangement of access and egress that minimise the
- impact of additional traffic
- shared space treatments to create 'home zones'⁷
- temporary use of streets as social space, for example play streets.

Context: Through effective design streets must be genuinely pedestrian friendly and where worries about personal safety or that of small children are alleviated. They should be twisted so the road itself is not a racetrack, the design being such that speeds are limited naturally.

COMMENT

The context paragraph should be removed from the policy.

For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy 40 Residential Streets & Access Roads

Residential streets and access roads should be designed to ~~should be~~ part of the living space. Where possible and a common area for the community, equal to the amenity spaces and footpaths should be provided. Proposals to protect and mitigate against the impact of traffic within residential and community areas will be supported. Such proposals may include:

- traffic calming and gateway treatments to deter through traffic
- layout and arrangement of access and egress that minimise the
- impact of additional traffic
- shared space treatments to create 'home zones'⁷
- temporary use of streets as social space, for example play streets.

~~Context:~~ Through effective design streets must be genuinely pedestrian friendly and where worries about personal safety or that of small children are alleviated. They should be twisted so the road itself is not a racetrack, the design being such that speeds are limited naturally.

Objective CIT2

To ensure that any new housing has good pedestrian access into the village and good connections with existing facilities and housing stock

To ensure that car parking within the village is sufficient and supports the viability of the village centre

Policy 41 Sustainable Transport

Development, as appropriate to its scale and location, should include proposals which enhance the attractiveness of walking, cycling and public transport within Malborough village.

COMMENT

I have no comment on this policy

Policy 42 Accessibility for all

Proposals that improve the accessibility of Malborough for all sectors of society including the elderly and disabled will be supported.

COMMENT

I have no comment on this policy

SECTION 5

Conclusion and Recommendations

1. I find that the Malborough Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.
2. Due to the length of time it has taken for the Plan to reach examination the local policy context has changed in that, the emerging Joint Local Plan (which will become the relevant Development Plan once adopted) has now progressed to examination stage and it is quite likely that it will be adopted either before this plan is Made (should it be successful at Referendum) or shortly after. Although the time of my examination the Development Plan was the South Hams 2006 Core Strategy including saved policies from the 1996 Local Plan, 2007 Sherford New Community Area Action Plan (AAP), 2008 Affordable Housing Development Plan Document (DPD), 2010 Development Policies Development Plan Document (DPD) and the 2011 Site Allocations Development Plan Document (DPD), the preparation of the Plan and accompanying documents have been based on the Strategic Policies it contains- taking into account that some policies in the Development plan could be considered out of date. The Plan has also been developed to be in conformity with the strategic policies of the emerging JLP as far as possible to ensure that the Plan does not become out of date upon adoption of the JLP.
3. The general text in the plan should be modified to conform with the policy modifications.
4. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.
5. The Malborough Neighbourhood Plan does not relate to more than one

Neighbourhood Area and there are no other Neighbourhood Plans in place within the Neighbourhood Area.

6. The Strategic Environmental Assessment (SEA) as revised and the Habitats Regulations Assessment (HRA) screening, meet the EU Obligation.
7. The policies and plans in the Malborough Neighbourhood Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the South Hams 2006 Core Strategy including saved policies from the 1996 Local Plan, 2007 Sherford New Community Area Action Plan (AAP), 2008 Affordable Housing Development Plan Document (DPD), 2010 Development Policies Development Plan Document (DPD) and the 2011 Site Allocations Development Plan Document (DPD).
8. I therefore consider that the Malborough Neighbourhood Plan subject to the recommended modifications can proceed to Referendum.

Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD

Planning Consultant

NPIERS Examiner

CEDR accredited mediator

6th November 2018