

Salford Priors Parish Council

Salford Seven Neighbourhood Development Plan

A Report to Stratford-on-Avon District Council of the
Independent Examination of the Salford Seven Neighbourhood
Development Plan

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Overall Finding

This is the report of the Independent Examination of the Salford Seven Neighbourhood Development Plan. The plan area is the entire Salford Priors Parish area. The Plan period is 2015 to 2031. The Neighbourhood Plan includes policies relating to the development and use of land.

The report finds that subject to specified modifications the Neighbourhood Plan meets the basic conditions and other requirements to proceed to a local referendum within the Parish.

Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning Policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”¹
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Salford Seven Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Salford Priors Parish Council (the Parish Council), a qualifying body able to prepare a neighbourhood plan, in respect of the Salford Priors Neighbourhood Plan Area which was formally designated by Stratford-on-Avon District Council (the District Council) on 16 June 2014. The Parish includes seven villages and hamlets, namely Abbot’s Salford; The Bevingtons; Dunnington; Iron Cross; Pitchill; Rushford; and Salford Priors, collectively known as the ‘Salford Seven’. Plan preparation has been progressed through a Steering Group, consisting of councillors and residents, to which five working groups have reported.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to the District Council. The District Council has submitted the Neighbourhood Plan to me for independent examination

Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.² The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The

¹ Paragraph 183 National Planning Policy Framework (2012)

² Paragraph 10 Schedule 4B Town and Country Planning Act 1990

District Council will decide what action to take in response to the recommendations in this report.

6. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission Draft plan. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by the District Council. If 'made' the Neighbourhood Plan will come into force and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area.
7. I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.
8. As independent examiner I am required to produce this report and must recommend either:
 - that the Neighbourhood Plan is submitted to a referendum, or
 - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
 - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.
9. I make my recommendation in this respect and in respect to any extension to the referendum area,³ in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.⁴

³ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁴ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

10. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁵ The Guidance states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”
11. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

Basic conditions and other statutory requirements

12. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.⁶ A neighbourhood plan meets the basic conditions if:
- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
 - the making of the neighbourhood plan contributes to the achievement of sustainable development,
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
 - the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.⁷
13. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.⁸ All of these matters are considered in the later sections of this report titled

⁵ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

⁶ Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

⁷ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁸ The Convention rights has the same meaning as in the Human Rights Act 1998

‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan policies’.

14. In addition to the basic conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.⁹ I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 which are made pursuant to the powers given in those sections.
15. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 16 June 2014. A map of the Salford Seven Designated Plan Area is included as Figure 1 of the Submission Draft Plan. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁰ and no other neighbourhood development plan has been made for the neighbourhood area.¹¹ All requirements relating to the plan area have been met.
16. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;¹² and the Neighbourhood Plan does not include provision about excluded development.¹³ I am able to confirm that I am satisfied that each of these requirements has been met.
17. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.¹⁴ The front cover of the Submission Draft clearly shows the plan period to be 2015 to 2031.
18. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.¹⁵ It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan. I have been appointed to examine whether the

⁹ In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

¹⁰ Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

¹¹ Section 38B (2) Planning and Compulsory Purchase Act 2004

¹² Section 38A (2) Planning and Compulsory Purchase Act 2004

¹³ Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

¹⁴ Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

¹⁵ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

submitted Neighbourhood Plan meets the basic conditions and Convention rights, and the other statutory requirements.

19. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
20. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
21. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the basic conditions and the other requirements I have identified.¹⁶

Documents

22. I have given consideration to each of the following documents in so far as they have assisted me in considering whether the Neighbourhood Plan meets the basic conditions and other requirements:

- Salford Seven Neighbourhood Development Plan 2015 to 2031 Submission Draft May 2016
- Salford Seven Neighbourhood Development Plan Basic Conditions Statement April 2016
- Salford Seven Neighbourhood Development Consultation Statement April 2016
- Salford Seven Neighbourhood Development Plan Strategic Environmental Assessment and Habitats Regulations Assessment SEA Screening Document July 2015
- SEA Statutory Consultee responses
- SEA Screening Stratford-on-Avon District Council Conclusion 11 April 2016

¹⁶ See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Representations received during the Regulation 16 publicity period
- Stratford-on-Avon District Council Core Strategy adopted 11 July 2016
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Department for Communities and Local Government Permitted development for householders' technical guidance (April 2016) [*In this report referred to as the Permitted Development Guidance*]
- Department for Communities and Local Government Planning Practice Guidance web-based resource (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Localism Act 2011
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations*]

Consultation

23. The submitted Neighbourhood Plan is accompanied by a comprehensive Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members and other consultees and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

24. Consultation began with a well-publicised public meeting in September 2013 attended by approximately 75 residents. A Neighbourhood Plan Steering Group and working groups were subsequently established. Publicity has been achieved using a Facebook page, newsletters, and posters on noticeboards.

25. An exhibition and surgery event in April 2014 was attended by over 100 people included a poll conducted by the environment group and a housing questionnaire. These and a comprehensive exit questionnaire informed a first draft Plan, as did a workshop session held in June 2014 and a breakfast meeting for local businesses in September 2014.

26. A call for sites exercise closing in September 2014 resulted in 10 sites

being put forward for consideration. A consultation event held in November 2014 attended by 45 people was followed by further events in Abbot's Salford and Dunnington were each attended by 20 people. Comments made and an independent assessment of potential sites informed the selection of sites to be included in the Plan.

27. Other consultation activities included a coffee morning to discuss community issues and needs in November 2014, and a meeting with representatives of neighbouring councils to discuss cross-boundary issues. In addition, letters were sent to churches and schools in April 2015.
28. Pre-submission consultation in accordance with Regulation 14 was undertaken in a six-week period from 29 June to 10 August 2015. Publicity included a newsletter to all households, three public drop-in sessions, public notices on noticeboards and in the Stratford Herald newspaper. More than 240 copies of the Plan were distributed to statutory consultees, businesses, residents and local groups, and copies available to view at Bidford on Avon library and on the Parish Council website. 37 representations were received from residents and statutory consultees. Responses resulted in adjustment of the Draft Neighbourhood Plan.
29. During the pre-submission consultation period a site at Orchard Close was proposed for housing development. This was independently assessed in the same way as other sites had been. A questionnaire was delivered to every household in October 2015 and a copy posted on the NDP website. An advertised public exhibition was held in November 2015.
30. The revised Neighbourhood Plan was approved by the Parish Council and submitted to the District Council. The Submission Draft of the Neighbourhood Plan has been the subject of a Regulation 16 publicity period that closed on 1 July 2016. A total of 31 representations were submitted to the District Council during the publicity period which I have taken into consideration in preparing this report, even though they may not be referred to in whole, or in part.
31. One representation queried the spatial application of policies. The Neighbourhood Plan policies apply throughout the neighbourhood area unless a policy specifies its area of application to be only a part of the neighbourhood area.
32. Natural England; Network Rail; and The Coal Authority confirm no

comments to make. Warwickshire and West Mercia Police welcome the vision of a safe and secure parish and associated design and infrastructure measures. Sport England provide general advice, and Warwickshire County Council states general support for neighbourhood planning and states there are a number of properties in Salford Seven that have been flooded. Historic England is pleased to note the prominence of historic environment issues but expresses concern that there appears to be no evaluation of the likely impact of new housing allocations on nearby designated assets, and the lack of reference to consultation with the County Historic Environment Record means undesignated heritage assets and potential archaeological remains have not been identified on allocation sites. One representation repeats comment made earlier in the plan preparation process opposing housing development, in particular referring to three sites. Three representations express general support for the Neighbourhood Plan. The County Council queried progress on Core Strategy preparation and the District Council has provided an update. The Environment Agency recommend the Neighbourhood Plan should contain an additional policy relating to Flood Risk Management. It is however, beyond my role to recommend a modification of the Neighbourhood Plan to include an additional policy.

33. Where representations relate to specific policies I have considered the issues raised when examining the policies in question later in my report.
34. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which –
- a) Contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
 - b) Explains how they were consulted;
 - c) Summarises the main issues and concerns raised by the persons consulted; and
 - d) Describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.¹⁷
35. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. On this basis I am satisfied the requirements have been met.

¹⁷ Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

The Neighbourhood Plan taken as a whole

36. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this.

Consideration of Convention rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

37. The Basic Conditions Statement states *“The submission Neighbourhood Plan is fully compatible with the European Convention on Human Rights.”* I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).¹⁸ I have seen nothing in the submission Draft of the Neighbourhood Plan that indicates any breach of the Convention. The Basic Conditions Statement states *“In general, the policies and proposals will not have a discriminatory impact on any particular group of individuals.”* Although no equalities impact assessment has been undertaken the submission draft of the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

38. The objective of EU Directive 2001/42¹⁹ is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of

¹⁸ The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

¹⁹ Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

'plans and programmes'²⁰ as the Local Planning Authority is obliged to 'make' the plan following a positive referendum result.²¹

39. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council to submit to the District Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004, or a statement of reasons why an environmental report is not required. The District Council issued a Strategic Environmental Assessment Screening Document in July 2015 concluding that the Neighbourhood Plan will not have significant effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations and therefore does not need to be subject to a report prepared in accordance with the EU Directive 2001/42 on Strategic Environmental Assessment (SEA). It is confirmed that the statutory environmental bodies concurred with the Screening conclusions. I am satisfied that the requirements in respect of Strategic Environmental Assessment have been met.
40. The Screening Document dated July 2015 prepared by the District Council that I have referred to also included a Habitats Regulations Assessment concluding "*There are no internationally designated wildlife sites within the Neighbourhood Area or within 20 km of it. The SPNDP will not, therefore, have an adverse effect on the integrity of internationally designated sites either on its own or in combination with other plans and does not need to be subject to a Habitats Regulations assessment.*" I conclude the requirements of the EU Habitats Regulations have been met. I have not seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site.
41. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.
42. I conclude that the Neighbourhood Plan:
- is compatible with the Convention rights
 - does not breach, and is otherwise compatible with, EU obligations

²⁰ Defined in Article 2(a) of Directive 2001/42

²¹ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

43. The Guidance²² states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive):

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

44. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans²³ which requires plans to be “*consistent with national Policy*”.

45. Lord Goldsmith has provided guidance²⁴ that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national Policy mean?*” the Guidance states a

²² National Planning Policy Guidance paragraph 031 reference ID:11-031-20150209

²³ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

²⁴ The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord’s Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

neighbourhood plan “*must not constrain the delivery of important national Policy objectives.*”

46. The Basic Conditions Statement seeks to demonstrate that the Neighbourhood Plan has been prepared with regard to national policies as set out in the Framework. A statement is made to explain how the Neighbourhood Plan has been drafted to have regard to paragraph 184 of the Framework. A Table is also presented in the Basic Conditions Statement setting out how the Neighbourhood Plan has regard to the twelve core planning principles set out in paragraph 17 of the Framework.
47. The Neighbourhood Plan includes a positive Vision seeking future growth that is diverse, sympathetic, well-designed and sustainable whilst also providing a safe, secure, thriving rural community with a strong voice, that conserves its natural environment and historic character. The Vision is further supported by seven objectives relating to environmental, social, economic, and movement issues. The vision and objectives of the Neighbourhood Plan are consistent with the core planning principles of the Framework. The Neighbourhood Plan taken as a whole seeks to shape and direct development. This is precisely the role national Policy envisages for a neighbourhood plan.
48. Apart from those elements of Policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.*”
49. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.²⁵ The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental,*

²⁵ Paragraph 14 National Planning Policy Framework 2012

economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions²⁶.

50. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

51. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes a section that seeks to demonstrate the economic, social and environmental attributes of the Neighbourhood Plan.

52. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by seeking to accommodate new development and preserve and enhance public and private sector community and commercial facilities whilst seeking to safeguard aspects of the built and natural environment that are highly valued by residents of the area. In particular, I consider the Neighbourhood Plan seeks to:

- support appropriate local economic development through new buildings, farm diversification, live/work units, rural tourism, and homeworking as well as safeguarding existing employment sites;
- facilitate community integration and safety, support new and improved community buildings, and protect community facilities;
- designate seven Local Green Spaces;

²⁶National Planning Policy Guidance (Ref ID:41-072-20140306)

- facilitate sustainable means of travel;
- support provision of new homes to meet local needs, including allocation of specific sites;
- protect features of the rural landscape, including watercourses and water features;
- promote high quality design and support sustainable construction; and
- promote local distinctiveness and protect important built heritage assets.

53. I note the Neighbourhood Plan includes Section 8 'Monitoring and Review' where it is stated the Parish Council will monitor the policies and proposals in the Neighbourhood Plan on an annual basis. The commitment to monitoring, and possible subsequent review, represents good practice.

54. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

55. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.²⁷ “*Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them.*”

²⁷ Paragraph 16 National Planning Policy Framework 2012

*Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies”.*²⁸

56. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”²⁹ In this independent examination I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The District Council has informed me that the Development Plan applying in the Salford Seven neighbourhood area and relevant to the Neighbourhood Plan comprises the Stratford-on-Avon District Council Core Strategy adopted 11 July 2016, and that all of the policies of the Core Strategy are deemed to be strategic in nature.
57. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The Submission Plan states “*The examination of the Core Strategy has yet to conclude, but this plan has been prepared by having appropriate regard to all the emerging policies in the Core Strategy*”. This approach represents good practice and indeed has proven to be appropriate and convenient as the Core Strategy has now been adopted prior to this Independent Examination of the Neighbourhood Plan.
58. In considering a now repealed provision that “a local plan shall be in general conformity with the structure plan” the Court of Appeal stated “the adjective ‘general’ is there, “to introduce a degree of flexibility.”³⁰ The use of ‘general’ allows for the possibility of conflict. Obviously there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.
59. The Guidance states, “When considering whether a Policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:

²⁸ Paragraph 184 National Planning Policy Framework 2012

²⁹ National Planning Policy Guidance (ID: 41-04720 140306)

³⁰ Persimmon Homes v. Stevenage BC the Court of Appeal [2006] 1 P & CR 31

- *whether the neighbourhood plan Policy or development proposal supports and upholds the general principle that the strategic Policy is concerned with*
- *the degree, if any, of conflict between the draft neighbourhood plan Policy or development proposal and the strategic Policy*
- *whether the draft neighbourhood plan Policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic Policy without undermining that Policy*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.*³¹

60. My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance. If there were to be a conflict between a Policy in a neighbourhood plan and a Policy in a local plan the conflict must be resolved in favour of the Policy contained in the last of those plans to become part of the Development Plan.³²

61. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

The Neighbourhood Plan policies

62. The Neighbourhood Plan includes 34 policies:

Policy SP1: Protecting the historic environment

Policy SP2: Buildings of local importance

Policy SP3: Protecting the rural character and environment

Policy SP4: Sustainable construction

Policy SP5: High quality design

Policy SP6: Sustainability and renewable energy

Policy SP7: New housing development in the parish of Salford Priors

³¹ National Planning Policy Guidance (ID ref: 41-074 201 40306)

³² Section 38(5) Planning and Compulsory Purchase Act 2004

Policy SP8: Land opposite Cleeve View, Evesham Road, Salford Priors

Policy SP9: Land at Orchard Farm, School Road, Salford Priors

Policy SP10: New housing development on non-allocated sites

Policy SP11: Housing density

Policy SP12: Affordable housing

Policy SP13: Conversion of redundant agricultural buildings for housing and other uses

Policy SP14: Woodlands, trees and hedgerows

Policy SP15: Protecting the best and most versatile agricultural land

Policy SP16: Protected open areas

Policy SP17: Protected Local Green Spaces

Policy SP18: Watercourses and water features

There is no policy SP19

Policy SP20: Footpaths and cycleways

Policy SP21: Traffic and highway safety

Policy SP22: Car parking

Policy SP23: Public transport

Policy SP24: Existing and new employment and business uses (Use Classes B1, B2 and B8)

Policy SP25: Farm diversification

Policy SP26: Live/work units and home working

Policy SP27: Commercial development and highways

Policy SP28: Rural tourism

Policy SP29: Touring caravanning and camping sites

Policy SP30: Development and the community

Policy SP31: New and improved community buildings

Policy SP32: Protecting community assets

Policy SP33: Community safety

Policy SP34: Contributions to new infrastructure and facilities

Policy SP35: Leisure and recreation facilities

63. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.” “Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*³³

³³ Paragraphs 184 and 185 National Planning Policy Framework 2012

64. The Guidance states “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.”
65. “While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.
66. “A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.”³⁴
67. If to any extent a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn.

Policy SP1: Protecting the historic environment

68. This policy seeks to establish that development proposals shall preserve and enhance the historic and cultural built heritage.
69. Four representations support the policy with comments including “vital” and “particularly important” and stressing the long historical heritage and the great charm, quality and character of the parish.

³⁴ See section 38(6) of the Planning and Compulsory Purchase Act 2004.

70. Another representation states the policy could include reference to blue-green infrastructure. Another representation states *“The draft plan should ensure that appropriate archaeological assessment is undertaken in advance of any new development beginning. This could be achieved by the inclusion of a new bullet point.”* There is no requirement for a Neighbourhood Plan to include a policy relating to archaeology or blue-green infrastructure in order to meet the basic conditions.
71. A further representation states *“It would be helpful for those particular elements or features that contribute to ‘distinctive character’ to be identified. Otherwise, this Policy would appear to contribute little in the way of ‘added value’ to emerging Core Strategy policies.”* The policy does identify features of development proposals considered to be of importance. I have recommended a modification so the proposals should demonstrate how they reflect, preserve, and enhance the locally distinctive design attributes.
72. A further representation states *“Criterion (a) looks to maintain the character of the settlements of the Parish, including their settings, spaces and built form. How would the allocation of 66 new dwellings as set out in Policy SP9 achieve this?”* The policy establishes the features of development proposals that will be assessed.
73. Another representation refers to the maintenance of the distinctive and separate character of each of the seven settlements of the Parish. The policy is appropriate in this respect however I consider the representation further when examining policy SP16 later in my report.
74. The policy states an expectation without implication. I therefore recommend modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.
75. The term *“suitable, sustainable materials”* is imprecise. I recommend point e) is deleted so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.
76. Part f) of the policy is imprecise. It is not stated who should be working with the highway authority, and in any case this is a procedural rather than a policy matter. I have recommended a modification so that the provision relates to development proposals as required by the opening part of the policy, and recommended deletion of the term *“use suitable materials”* which is imprecise.

77. The policy includes provision relating to hedgerows. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations. It is however appropriate for the Neighbourhood Plan to seek to introduce an additional regime of protection and new provision to apply in the context of development proposals.

78. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The policy has regard to the components of the Framework concerned with requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this policy meets the basic conditions.

**Recommended modification 1:
In Policy SP1**

- **delete “Development proposals will be expected to preserve and enhance” and insert “To be supported development proposals must demonstrate how they reflect, preserve, and enhance the locally distinctive design attributes of”**
- **delete “contributes” and insert “contribute”**
- **delete point e)**
- **in f) delete “working with the highway authority and infrastructure providers to ensure” and insert “ensuring” and delete “use suitable materials”**

Policy SP2: Buildings of local importance

79. This policy seeks to protect identified buildings of local importance.

80. A representation questions the basis for assessment of buildings and states reasons for inclusion should be given. The Neighbourhood Plan states buildings have been included because of their age, historic and cultural associations, landmark status, social, community and rarity value and have been identified using Historic England’s Good Practice Guide for Local Heritage Listing. It is stated a summary of the reasons for identifying each of these buildings as locally important is contained in Appendix 1. This information has not been included in Appendix 1. I have recommended a modification in this respect.

81. Another representation states “*Any replacement building should only be allowed if it shows the highest possible standards of design and construction, whilst at the same time blending in with the local environment*”. The term “*highest possible*” is imprecise and I therefore have not recommended a modification in this respect as the Policy must provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. Procedures in respect of dangerous structures are established within the statutory Building Control function of Local Authorities and of necessity are most frequently dealt with as an emergency. It is inappropriate to link this matter of public safety to other decision making processes and I therefore recommend a modification to delete that provision.

82. The policy includes the word “*permitted*”. With regard to the issue of decision making the Framework states “*the planning system is planned. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise*”. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states development “*will only be permitted in the following circumstances*”. Policies should use the term “supported” or “not be supported” in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. I have recommended a modification so that the basis of decision making on planning applications should be clarified.

83. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 2:

In Policy SP2

- **delete “permitted” and insert “supported”**
- **delete “the building is a danger to public safety”**
and include in Appendix 1 a reason for inclusion of each building

Policy SP3: Protecting the rural character and environment

84. This policy seeks to ensure new development minimises, and where appropriate, mitigates its impact on the rural character and landscape of the Parish.
85. A representation supports the policy. Another representation refers to sand and gravel operations and past environmental damage arising from incomplete restoration. Mineral extraction related matters are excluded development for the purposes of Neighbourhood Plan preparation.
86. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with requiring good design and conserving and enhancing the natural environment. This Policy meets the basic conditions.

Policy SP4: Sustainable construction

87. This policy seeks to reduce the impact of climate change and encourages new residential development to exceed national standards.
88. Representations include:
- *“We consider the suggested measures of “flood prevention and mitigation measures” are a form of flood risk mitigation as opposed to flood avoidance which should be considered first in accordance with the flood risk management hierarchy. The Sequential Test in the NPPF should be applied to avoid inappropriate development in the floodplain in the first instance”*
 - *“sustainable construction should not be confused with flood prevention and mitigation measures”.*
 - *“The requirement to exceed national standards may be contrary to national planning policy and the imposition of national standards”.*

- “Criterion (a) includes a reference to ‘measures’ to reduce and adapt to the impacts of climate change. A definition of what measure is needed”
- “Criterion (c) seeks to include measures to reduce energy consumption or provide energy from renewable or low carbon sources. Following the Government’s Housing Standards Review, these issues will not be covered by planning, but will be dealt with by Building Regulations”.
- “Any development within the expected flood plain should only be allowed in exceptional circumstances”.
- “SUDS, both in new developments and as retrofit, can make a contribution to addressing some of the local challenges, and can bring other benefits too if properly designed”.

89. The Written Ministerial Statement to Parliament of the Secretary of State (CLG) on 25 March 2015 included the following *“From the date the Deregulation Bill 2015 is given Royal Assent, local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings”*. The terms *“minimise use of resources”* and *“minimise household running costs”* and *“encouraged to seek to exceed”* are imprecise such that the policy does not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. I recommend deletion of the policy.

**Recommended modification 3:
Delete Policy SP4**

Policy SP5: High quality design

90. This policy seeks to establish that new development should be of high quality design, improve the quality of the public realm and maintain a strong sense of place, reflecting the character and the distinctiveness of the parish and its settlements.

91. One representation refers to new sand and gravel operations however these matters are excluded development for the purposes of neighbourhood planning. Other representations state general support for the policy, and one representation states particular support for

provision h). Another representation states it would be helpful to incorporate a local perspective. I am satisfied the policy provides an additional level of detail and local approach beyond the policies of the Core Strategy.

92. The terms “*where appropriate*” and “*such as*” are imprecise and I therefore recommend modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

93. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy does not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. However, the policy does properly seek to promote or reinforce local distinctiveness. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with requiring good design and promoting healthy communities. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 4:

In Policy SP5

Replace b) with “use traditional and reclaimed tiles, slates, bricks, and stone materials unless it is demonstrated that this is inappropriate;”

Policy SP6: Sustainability and renewable energy

94. This policy seeks to establish that large-scale commercial renewable energy installations will not be supported unless six stated conditions are satisfied.

95. A representation states “*The policy duplicates some of the principles set out in Policy CS.3: Sustainable Energy of Stratford District Submission Core Strategy and should be omitted.*” I am satisfied the policy provides an additional level of detail and local approach beyond the policies of the Core Strategy. The representation states that if retained the policy should be positively framed, have greater regard for paragraph 97 of the Framework, and not include the imprecise terms “full-sized” and “minimal”. I agree with these latter points and have

recommended an appropriate modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. The representation also suggests the policy should include additional matters and references. Another representation also suggests additional policy matters. It is not within my role to recommend modification to include additional areas of policy. It is not necessary to include reference to other documents in order to meet the basic conditions. The representation also queries the assessment of existing noise levels however I am satisfied it is practicable to determine relevant existing ambient noise profiles. Two other representations support the policy. I have recommended deletion of the final part of the policy where reference is made to proposals outside the Parish as the Neighbourhood Plan only applies to the Neighbourhood Area.

96. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with requiring good design; meeting the challenge of climate change and flooding; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 5:

In Policy SP6

- **delete “full-sized”**
- **delete “will not be supported unless” insert “will only be supported where”**
- **delete “is minimal and” in b)**
- **delete “minimal and” in c)**
- **replace e) with “There are no significant adverse impacts on wildlife; and”**
- **after “setting,” delete “the” in f) and insert “a”**
- **delete the final paragraph**

Policy SP7: New housing development in the parish of Salford Priors

97. This policy seeks to establish support for new housing development on eight specified sites. The policy heading states “in the Parish of Salford

Priors” and the policy itself states “in Salford Priors”. As specification of spatial application is confusing and unnecessary in this case I have recommended an appropriate modification in this respect.

98. Representations state:

- support for the policy;
- Salford Priors and in particular the site on Land off Evesham Road, Salford Priors currently allocated for 12 units (Figure A15 – SP7/7) is capable of providing additional housing;
- land to the east of St Matthews Church, Salford Priors is available and deliverable and is sustainably located towards the centre of the village and could readily accommodate circa 10 dwellings;
- a NDP can propose development in other locations (reference is made to Rushford/Pitchill and Abbots Salford) to that specified by a Core Strategy;
- with 60 dwellings already committed in Salford Priors a further large site on School Road for 60 units would exceed significantly the scale of housing expected in Policy CS.16 of the Core Strategy i.e. no more than around 84 dwellings. Having said that, it is a matter of local choice if the community seeks to plan for a scale of development above that given in the Core Strategy;
- there is no reference to a settlement boundary for Salford Priors. Should this be defined and indicated on a map? Outside such a boundary, there will only be scope for “rural exception housing” (i.e. local needs schemes) falling within Part 6 of Core Strategy Policy CS.15;
- each allocated site quotes a number of dwellings. Should each state ‘up to...’ or approximately...’ since the sites may be able to accommodate more than the quoted figure;
- sites SP7/6 and SP7/7 will require a flood risk assessment;
- there is no justification or explanation for the Policy. Is there evidence to show that the quoted sites are deliverable;
- those sites backed by the steering group, after the Call for Sites exercise, should have been, and now should be, appraised and considered by the hamlet communities in which they are situated. Their inclusion in the plan, have not been subjected to the same review and consultation processes that other development sites have rightly enjoyed, for instance Orchard Farm and Evesham Road. We note that Stratford District Council has also raised the issue in its part of the current plan

consultation process saying “*Core Strategy approach does not provide for dwellings in Rushford/Pitchill and Abbots Salford other than to meet a local need. A NDP can propose development in other locations to that specified by a Local Plan/Core Strategy but there should be clear justification for doing so based on local circumstances.*”;

- The plan states that development proposals will be expected to maintain “*the distinctive and separate character of each of the seven settlements of the parish, including their settings, spaces and built form*”. It has not been explained why this is not pursued in respect of all the settlements;
- Some of the larger proposed sites lie on prime agricultural land which should be avoided in favour of poorer quality land.

99. The Framework states “*all plans should be based upon and reflect the presumption in favour of sustainable development*”³⁵ and critically it will mean that neighbourhoods should “*plan positively to support local development*”³⁶. I consider the Policy has sufficient regard to these components of the Framework. The inclusion of specific numbers of units to be developed on each site is however overly prescriptive and may lead to a particular scheme of sustainable development not being supported. I recommend a modification so that the number of units anticipated on each site are stated to be approximate.

100. The Guidance states where a Neighbourhood Plan allocates sites an appraisal of options and an assessment of individual sites against clearly identified criteria must be undertaken. Links are provided to ‘Housing and economic land availability assessment’ and ‘viability’ within the Guidance. The Guidance states “*it is the role of the assessment to provide information on the range of sites which are available to meet need, but it is for the development plan itself to determine which of those sites are the most suitable to meet those needs.*” I have already referred to the part of the Guidance that states “*While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*”.

³⁵ Paragraph 15 National Planning Policy Framework 2012

³⁶ Paragraph 16 National Planning Policy Framework 2012

101. The Call for Sites Assessment Report of November 2014 sets out the method and results of the site selection process. The 10 sites put forward by interested parties and landowners were scored against 7 stated criteria. Scores have been assigned according to a judgement based on an analysis of each site that is presented in Appendix 3 of the Report. Scores have been arithmetically correctly added in Appendix 2 to produce a total score for each site. The Site Assessment Report includes a recommendation "*Whilst the following sites were identified as constrained, in terms of scoring applied, they came out as the best sites for housing development*". Sites H, G, I, F, and C are then listed. It is further stated "*The recommendation is that the Steering Group consider if these sites should be taken forward in the Neighbourhood Plan consideration should also be given to including a criteria based policy for any further housing applications that would come forward during the plan period beyond these sites.*" The policy includes not only the 5 sites recommended in the Call for Sites Assessment Report but also sites D, E, and J. I have earlier in my report referred to the process relating to site J. During the pre-submission consultation period the site at Orchard Close was proposed for housing development. This was independently assessed in the same way as other sites had been.

102. The Site Assessment Report has provided information on a reasonable range of sites which are available and the Neighbourhood Plan has determined which of those sites are the most suitable. The Guidance states "*Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*". There is an absence of information to explain the relationship between the Site Assessment Report and the sites supported as allocations included in the Policy. I have stated earlier in my report that it is not within my role to test the soundness of the Neighbourhood Plan. In this context it is not within my role to test the soundness of the approach adopted, nor to test whether the strategy adopted is the most appropriate. Independent examination of a neighbourhood plan cannot consider whether the proposed strategy is justified by a proportionate evidence base³⁷.

103. There is however another impediment to the policy proceeding as proposed. The Core Strategy includes provision for development to occur in the village of Salford Priors and development in that settlement in excess of the strategic allocation made by Core Strategy

³⁷ Woodcock Holdings Ltd and Secretary of State CLG and Mid Sussex District Council 2015 EWHC 1173 (Admin)

Policy CS.16 would remain in general conformity with that strategic policy. In the other settlements in the Neighbourhood Plan area the Core Strategy states development is restricted to small-scale community-led schemes which meet a need identified by the local community. The Neighbourhood Plan proposes support for housing development in Rushford, Pitchill and Abbot's Salford but does not set out evidence of need identified by the community. On this basis I recommend deletion from the policy of the sites in Rushford and Pitchill and in Abbot's Salford.

104. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 6:

In Policy SP7

- **delete “in the Parish of Salford Priors” from the policy title**
- **delete sites SP7/1 SP7/2 SP7/3 SP7/4 SP7/5**
- **insert “approximately” before the number of units stated in respect of all the remaining sites**
- **after “2 units” in SP7/6, and after “below” in SP7/7, insert “subject to a flood risk assessment”**

Policy SP8: Land opposite Cleeve View, Evesham Road, Salford Priors

105. This policy seeks to allocate land opposite Cleeve View, Evesham Road, Salford Priors for 12 new homes subject to 5 conditions.

106. One representation supports the policy. Another representation states this policy restricts the potential of the site to be able to accommodate additional housing. In this respect whilst it is appropriate for a community to indicate the general scale of development that sites are considered suitable for, it is not appropriate to specify a precise number of dwellings in that this could prevent support being given to a proposal that constitutes sustainable development. I recommend the

insertion of the word “approximately” in order to introduce flexibility in this regard. Another representation states the limit to 1.5 storey height properties built in a ‘cottage courtyard’ style is overly prescriptive. The Framework states *“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.”* No justification is stated for the condition in question and I therefore recommend deletion of that restriction.

107. Another representation suggests inclusion of additional land *“would form a more comprehensive development site and would allow for a far more integrated scheme which could permeate pedestrian or vehicle movements through to the centre of the village and provide greater potential for local equipped space as required by residents”*. It is not within my role to recommend additional land to be included in site allocations.

108. A further representation queries the requirement to provide parking for existing dwellings. The requirement to provide parking provision for properties outside the allocation site is not a legitimate requirement. Affordable housing is dealt with in policy SP17 and to attempt to partially deal with the issue in this policy is inappropriate and not conducive to providing a clear framework for decision making. I recommend a modification in both these respects.

109. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes; requiring good design; and conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 7:
In Policy SP8**

- **insert “approximately” before “12”**
- **delete a)**
- **delete b)**
- **delete d)**

Policy SP9: Land at Orchard Farm, School Road, Salford Priors

110. This policy seeks to allocate land at Orchard Farm, School Road, Salford Priors for 60 new homes and a village green subject to stated conditions.
111. Representations support the policy stating it is vital to the sustainability of the village, the school needs to be protected from falling numbers, and it will unite the village around a green focal point that could include a pond. Other representations object to the scale of development in open countryside, loss of prime agricultural land, effect on the setting of Listed Buildings, and the lack of information regarding lost employment at the farm which would result if this site were to be allocated. Another objection relates to the close proximity to future quarrying activity. One representation suggests an alternative site, and another states there is no additional need over the Alamo site. Another representation raises concern that existing activities at the award winning residential cookery school that employs 26 staff, with up to 48 students present, may disturb future residents of the proposed development. Similar issues are raised in respect of a fruit and vegetable pack house employing 40-60 people that operates 24 hours a day.
112. Another representation states *“the phasing plan is very prescriptive although it is reasonable to expect development of the site and off-site works to take place concurrently. It is unclear whether points 3 and 5 of Phase One of the Phasing Plan can be achieved within public highway or on land controlled by site owner.”* A further representation states 3 hectares is a large area for a village green and questions the justification for such a large tract of land to be put to this use and also asks whether the area concerned should be mapped. Another representation states the final paragraph reads more like explanatory text, not policy.
113. The final paragraph of the policy contains a point of information rather than policy content. I recommend the text should be transferred to the supporting text. The term *“suitable mix”* is imprecise. Modification would be necessary so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. However, policy CS.18 of the Core Strategy provides an appropriate policy context relating to housing mix and duplication in the Neighbourhood Plan is both unnecessary and not conducive to providing a practical framework for decision making. In the same way, in the context of

Core Strategy policy CS.17, condition b) should also be deleted. The terms “creates an appearance of” and “should pay careful attention” and “over an appropriate timescale” are imprecise. I have recommended appropriate modification in these respects also. The requirement to provide parking provision for properties outside the allocation site is not a legitimate requirement.

114. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes; requiring good design; and conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 8:

In Policy SP9

- **insert “approximately” before “60”**
- **delete a)**
- **delete b)**
- **in criterion d) delete “creates an appearance of” and insert “achieves”**
- **replace the second sentence of e) with “The design and layout of the village green must include measures to prevent parking near to the junction with School Road.”**
- **delete g)**
- **delete “over an appropriate timescale”**
- **delete the final paragraph from the policy and transfer to supporting text**

Policy SP10: New housing development on non-allocated sites

115. This policy seeks to establish support for new housing development on non-allocated sites where it retains the essential rural character and subject to stated criteria.

116. A number of representations refer to this policy the most significant of which states there is no justification or explanation of the policy. The Guidance states “*Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale*

of the policies in the draft neighbourhood plan". Another representation states *"There could be difficulties in identifying certain sites in hamlets that are not restricted to meeting a local need but restricting all other sites in this way. There needs to be clear evidence put forward to justify this approach"*. In the absence of clear evidence, the policy should be deleted. The intention of the policy however remains within the Development Plan in that Core Strategy Policy CS.15 makes provision for small-scale schemes on unidentified but suitable sites within the physical confines of Salford Priors, and for local needs schemes in all the settlements in the neighbourhood area.

**Recommended modification 9:
Delete Policy SP10**

Policy SP11: Housing density

117. This policy seeks to ensure new housing is developed at a maximum density of 20 dwellings per hectare.
118. A representation states the maximum density is very low and does not necessarily reflect rural character. Three representations state there needs to be clear evidence put forward to justify this approach. Another representation queries whether the density is gross or net, and whether the density is appropriate for replacement or single dwellings. Other representations state *"Housing, other than affordable, should not exceed 16 per hectare"* and *"Density still way too high for rural street scene"*. Other representations state *"The Orchard Farm proposal goes for more than 20, so given the space there it should be fine"* and *"This parish needs young people to choose to live here, and so needs affordable housing. Elsewhere in Europe, high density attractive and sustainable housing is achieved, and I see no reason why this could not be done here too"*.
119. The Framework states design policies should concentrate on, amongst other features, density. The Framework also states *"to boost significantly the supply of housing, local planning authorities should set out their approach to housing density to reflect local circumstances"*. The Framework is silent with respect to Neighbourhood Plans setting out an approach to housing density however reference is made to communities shaping and directing sustainable development to ensure that local people get the right type of development for their community.

120. The policy refers to the preservation of the rural character of the area but apart from this the Neighbourhood Plan does not set out any justification for the adoption of the specific maximum density of 20 dwellings per hectare. The Guidance states “*Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*”. The Neighbourhood Plan does not include evidence to support the approach taken. I recommend deletion of the policy.

**Recommended modification 10:
Delete Policy SP11**

Policy SP12: Affordable housing

121. This policy seeks to establish that proposals for 6 or more homes in Salford Priors village must provide at least 35% as affordable housing on site. The policy also sets out a sequential approach to be followed in the allocation of affordable homes. The policy also seeks to establish an approach to integration with surroundings including market homes and to the determination of type and size of housing.

122. A representation states the policy “*Exceeds minimum criteria for affordable housing, enabling local people to enter the property market as buyers or renters*”.

123. The policy is not in general conformity with several elements of Policy CS.17 of the adopted Core Strategy including the size of scheme threshold, on-site provision, and viability considerations. The Neighbourhood Plan does not meet the basic conditions in this respect and I have therefore recommended an appropriate modification.

124. The word “order” is imprecise and I therefore recommend modification to clarify the meaning as “order of priority” so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

125. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Subject to the recommended modification the Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core

Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with; delivering a wide choice of high quality homes. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 11:

In Policy SP12

- **replace the first two sentences with “All proposals for residential development on sites of 0.2 hectares or more and/or comprising 5 or more self-contained homes, will be required to contribute to the provision of affordable housing in accordance with Policy CS.17 of the Stratford-on-Avon District Core Strategy (or replacement Policy in a later Local Plan).”**
- **in the first paragraph after “order” insert “of priority”**
- **in the second paragraph delete “for more than six homes”**

Policy SP13: Conversion of redundant agricultural buildings for housing and other uses

126. This policy seeks to establish conditional support for conversion of redundant buildings for housing and other uses. The policy refers to buildings however it is evident the intention is that the policy should relate to agricultural redundant buildings and I therefore recommend a modification on this basis.

127. A representation supports the policy. Another representation questions whether the policy is unduly strict and could lead to applications for demolition. Being strict does not preclude a policy from meeting the basic conditions.

128. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes; requiring good design; and conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 12:

In Policy SP13

- in the first line after “redundant” insert “agricultural”
- continue f) with “where Building Regulations permit”

Policy SP14: Woodlands, trees and hedgerows

129. This policy states development proposals should seek to retain existing trees, woodland and hedgerows. The policy also identifies trees where development would have to demonstrate benefit outweighs their loss, and states replacement of hedgerows with other boundary treatments will not be supported.
130. Representations state the policy could include other ecological habitat, and reference to ditches or watercourses, and seek enhancement rather than just retention. It is not within my role to recommend modification to include additional policy areas. Another representation questions selection, and the implementation of the policy, and states the trees listed in Table 5 should be mapped. It is appropriate for a community to identify locally important trees and I consider the policy is implementable. Mapping would remove uncertainty of identification and provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.
131. The policy includes provision relating to hedgerows. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations. It is however appropriate for the Neighbourhood Plan to seek to introduce an additional regime of protection and new provision to apply in the context of development proposals. Similarly, whilst the Tree Preservation Order regime is well established and understood it is appropriate to seek to retain existing trees and woodland generally and to identify locally important trees. The Framework states *“planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitat, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss”*. The proposal to introduce an additional locally important tree regime has regard for this national approach. I have earlier in my report referred to the need to use the word “supported” rather than “permitted”.

132. Hedgerow replacement with other boundary treatments may be a preferred solution in a specific case and I therefore recommend a modification to accommodate a degree of flexibility.
133. Whilst the list of design principles set out in Appendix 3 are presented as “Guidelines” they in some instances are prescriptive, for example, Criterion 27 states that garaging must be met within the original building. This may not be practical in all instances. The approach advocated in Criterion 18 relating to sub-division of a large internal space may not always be the most appropriate solution. The Framework states unnecessary prescription or detail should be avoided in design policies. I recommend Appendix 3 should be revised to concentrate on guiding the overall design approach avoiding prescription of detail.
134. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 13:

In Policy SP14

- **add a map to confirm the location of the trees listed in Table 5**
- **delete “permitted” and insert “supported”**
- **continue the second paragraph with “unless biodiversity or visual amenity benefits are clearly demonstrated”**
- **Appendix 3 should be revised to concentrate on guiding the overall design approach avoiding prescription of detail**

Policy SP15: Protecting the best and most versatile agricultural land

135. This policy seeks to protect the best and most versatile agricultural land from development.
136. A representation states the implication of this policy is that development on lower grade land would be acceptable in principle. The policy only relates to best and most versatile land. Another

representation refers to changing agricultural practices however land classification remains relevant to planning policy. A further representation supports the policy on the basis prime agricultural land may be needed to feed future generations. Other representations refer to gravel extraction which is excluded development for the purposes of neighbourhood plan preparation, and possible links of the policy to specific development proposals however the policy does not refer to these.

137. I have earlier in my report referred to the need to use the word “support” rather than “permission”. No evidence is presented that loss of one grade of land rather than another grade has differential impact on landscape or settlement setting or character. It is not in the interests of clarity for any one policy to refer to other policies of the Neighbourhood Plan. The balancing of economic benefits is imprecise. I therefore recommend modification in all these respects so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

138. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 14:

Replace Policy SP15 with “Development proposals resulting in loss of best and most versatile agricultural land (Agricultural Land Classification Grades 1, 2 and 3a) will only be supported where it is demonstrated that the impact of the loss of the land will not adversely affect the viability of the relevant land holding, and it is demonstrated poorer quality land is not available”

Policy SP16: Protected open areas

139. This policy seeks to protect identified open areas from development except in specified circumstances.

140. Representations state the policy cannot be enforced in relation to the use and development of agricultural land, and will restrict mineral development and sterilize valuable mineral resources. Other representations support the policy.

141. The policy seeks to introduce a policy that is distinct from Local Green Space and from Green Belt. The three criteria by which proposals will be assessed suggest the basis of designation is historic character and rural setting, wildlife, and views. The Guidance states *“Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”*. The reason stated in Table 6 for each proposed area does not satisfy these requirements, and the reasons do not clearly relate to the criteria included in the policy. There is in addition no information to explain the process of selection of these areas. The policy does not provide sufficient information for it to be used as a framework for decision taking when proposals for development are being considered. I recommend the policy is deleted as it does not meet the basic conditions.

Recommended modification 15:

Delete Policy SP16, supporting text paragraphs 6.37 to 6.39, Table 6 and Figure 8

Policy SP17: Protected Local Green Spaces

142. This policy seeks to designate seven areas of land as Local Green Space. The wording of the Policy attempts to introduce a description, criteria and circumstances that differ from those set out in the Framework. This is a matter that could be addressed through a recommendation of a modification of the policy however there are other difficulties in the policy meeting the basic conditions.

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

reviewed, and be capable of enduring beyond the end of the plan period.”

144. I find the Local Green Space designations are being made when a neighbourhood plan is being prepared. The Guidance states *“Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.”* I am satisfied the Local Green Space designations will compliment investment in sufficient homes. The intended designations are consistent with the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework. I note a representation states part of the pasture land in the Gerrard Close Pond proposed area for designation has planning permission for residential development. This places in question the capability of the designation enduring beyond the Neighbourhood Plan period. The Guidance states *“Local Green Space designation will rarely be appropriate where the land has planning permission.”* I recommend deletion of the Gerrard Close Pond proposed designation if indeed a planning permission for development currently exists.

145. The Framework states that: *“Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.*

I find the intended Local Green Space designations relate to green space that is in reasonably close proximity to the community it serves; and in each case the green area is local in character and is not an extensive tract of land.

146. The Neighbourhood Plan states the areas of proposed Local Green Space have been identified *“as a result of community engagement, with careful assessment against the NPPF criteria.”* The

submission Neighbourhood Plan, in particular the statement of reasons included in Table 7 does not offer sufficient evidence for me to conclude the areas proposed for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance. I have not seen confirmation that the Qualifying Body contacted landowners at an early stage about proposals to designate any part of their land as Local Green Space as set out in the Guidance.

147. A Local Green Space designation is an important decision with significant implications for the land included. There must be no uncertainty as to the boundaries of the designation. The Neighbourhood Plan does not include a map of the boundaries of The Wetlands; Quarry Pools, and the Brooks. Whilst maps are presented in respect of the other four sites intended for designation these are diagrammatic in nature and do not precisely define the boundaries of the intended designated areas and do not show distinguishing features including buildings. I conclude consultation has been undertaken without clarity of spatial application and this lack of precise definition precludes designation as proposed in the policy. The policy does not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework and does not meet the basic conditions. I recommend deletion of the policy.

Recommended modification 16:

Delete Policy SP17, supporting text paragraphs 6.40 and 6.41, Table 7, and Appendix 4

Policy SP18: Watercourses and water features

148. This policy seeks to ensure water features, and access to watercourses are maintained. The policy also seeks to encourage informal recreational opportunities near to, or along water courses.

149. Whilst supporting the policy, representations suggest the policy should include: enhancement of water features and improvements to access; a village pond designed into the proposed village green; and provision for unpowered craft to be launched and navigate towards the Avon. It is beyond my role to recommend modification of the Plan to include additional policy areas.

150. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with; meeting the challenge of climate change and flooding; and conserving and enhancing the natural environment. This Policy meets the basic conditions.

There is no policy SP19

Policy SP20: Footpaths and cycleways

151. This policy seeks to retain public footpaths, cycleways, bridleways and rights of way, and specify requirements to apply to new routes. The policy also seeks to establish new development should improve accessibility to existing routes and minimise visual impact on them. The policy also seeks to establish support for two specified proposals.

152. A representation would welcome any further discussions on detail road safety matters and wishes to see those matters addressed in an accompanying Infrastructure Delivery Plan for the Neighbourhood Plan including how these matters will be funded. Reference is also made to routes around smaller settlements, and to ploughing and locking of routes. These are not matters for my consideration.

153. A representation states accessibility for all will not always be appropriate and suggests use of the term “*appropriate levels of accessibility*”. This latter term is imprecise and would not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. Accessibility for all users is an appropriate requirement except where it can be clearly demonstrated to be physically impossible. I have recommended a modification on this basis. I have also recommended deletion of the term “*when necessary*” so as to achieve a practical framework for decision making.

154. The final part of the policy supports specific projects. These projects extend beyond the neighbourhood area but the policy, as with all policies of the Neighbourhood Plan, only apply within the neighbourhood area.

155. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with promoting sustainable transport and requiring good design. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 17:

In Policy SP20

- delete “when necessary”
- after “all users” insert “except where it can be clearly demonstrated to be physically impossible.”

Policy SP21: Traffic and highway safety

156. This policy seeks to protect the safety of all highway users and maintain free flow of traffic and sets out a basis for assessment of development proposals.

157. A representation states “*the gravel proposals*” are the greatest risk to road safety of all users however this is not a matter for my consideration.

158. The policy includes several terms that are imprecise including “suitable” “frequently” “appropriate” “excessive” “suitable and appropriate” so that the Policy does not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. The policy relates to several matters that do not relate to the development and use of land, and others that are not adequately justified or evidenced.

Recommended modification 18:

Delete Policy SP21

Policy SP22: Car parking

159. This policy seeks to establish an approach to parking provision at community facilities, and in new housing and commercial developments.
160. Representations state the policy is too prescriptive; unlikely to be enforceable; should be consistent with Core Strategy policy CS.25C, and exceeds the industry standard of 1.5 car parking places to each property.
161. The first part of the policy twice uses the term, “*appropriate levels*”, that is imprecise and I therefore recommend deletion of that part of the Policy as it does not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.
162. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with building a strong, competitive economy; supporting a prosperous rural economy; promoting sustainable transport; and requiring good design. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 19: In Policy SP22 delete the first paragraph

Policy SP23: Public transport

163. This policy seeks to encourage and facilitate greater use of public transport.
164. The terms “*maximise*” and “*may*” are imprecise and introduce uncertainty, and the link between the second and third sentences is unclear and I therefore recommend modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

165. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with promoting sustainable transport. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 20:

In Policy SP23

- delete “maximise” and insert “increase”
- delete “may” and insert “will”
- delete “. In particular the following will be supported:”
- delete “Measures” in a) and b)

**Policy SP24: Existing and new employment and business uses
(Use Classes B1, B2 and B8)**

166. This policy seeks to safeguard existing employment sites and conditionally support new small employment buildings.

167. A representation states support for the policy. Another representation states a 12-month marketing period to demonstrate a site is no longer viable as an employment site may be unreasonably long in some circumstances. The requirement however meets the basic conditions.

168. The term “*new small buildings*” is imprecise. A representation proposes use of the term “*small-scale proposals for new employment opportunities*” however this is no more precise in terms of size and includes outdoor employment activities. I recommend deletion of the word “*small*” with the implication that appropriate scale will be determined on the basis of the four stated criteria within the policy. I also recommend deletion of the imprecise term “*existing infrastructure and services*”. In this way the policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

169. The Framework states development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. I have recommended a modification in this respect.

170. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with building a strong, competitive economy; supporting a prosperous rural economy; requiring good design; and conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 21:
In Policy SP24**

- delete “small”
- delete “existing infrastructure and services”
- delete “trips by Heavy Goods Vehicles using” and insert “severe transport impacts on”

Policy SP25: Farm diversification

171. This policy seeks to establish support for proposals to diversify farm businesses where four specified criteria are met.

172. A representation supports the policy and another states “No solar panels or windfarms”. This latter approach would not have regard for the provisions of the Framework that seek to help increase the use and supply of renewable and low carbon energy.

173. The term “*where possible*” is imprecise and I therefore recommend modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

174. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with supporting a prosperous rural economy; and conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 22:

In Policy SP25 replace c) with “proposals for new built development must demonstrate that existing buildings cannot be used”

Policy SP26: Live/work units and home working

175. This policy seeks to establish conditional support for the provision of live/work units, homeworking, and small home-based businesses. The policy also establishes support for the incorporation of workspace associated with residential development.

176. Representations state *“This policy doesn’t add much to Policy CS.21 in the Core Strategy. Also, there is a policy distinction between sites within a Local Service Village and other locations, in that new build dwellings are acceptable in the former so there isn’t a policy preference towards conversion of existing buildings”* and *“There is a difference between live/work units and homeworking, in that live/work units will invariably require planning permission for either conversion or new build, whereas homeworking can be operating a business out of a room in an existing dwelling, not necessarily triggering the need for ‘change of use’. Does homeworking need to be mentioned?”* and *“Life/work balance is encouraged by this policy”*.

177. The phrase *“requiring planning permission”* is not necessary as all the policies of the Neighbourhood Plan only apply where planning permission is required. The term *“preference will be for”* does not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework and I therefore recommend a modification in this respect. The terms *“appropriate to the character of the area, local settlement and the parish”*, *“small scale”*, and *“small”* are imprecise and also do not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. I therefore recommend a modification in these respects also.

178. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with building a strong, competitive economy; supporting a prosperous rural

economy; delivering a wide choice of high quality homes; requiring good design; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 23:

Replace Policy SP26 with “Development proposals will be supported for conversion of a building to live/work use; or the use of part of a dwelling for employment uses, and for small scale free standing buildings within its curtilage, extensions to the dwelling or conversion of outbuildings for employment uses provided that:

- **other than minor ancillary support, servicing and maintenance, all work activities are carried out only by the occupants of the dwelling;**
- **no significant and adverse impact arises to nearby residents or natural environment areas from traffic movements, noise, fumes, odour or other nuisance associated with the work activity;**
- **access arrangements and off-street parking can be satisfactorily provided without impinging on adjoining residential and non-residential uses; and**
- **any extension or free standing building should not detract from the appearance and character of the building to which they are subservient by reason of height, scale, or massing.**

Proposals for new build live/work units will only be supported if it can be demonstrated no suitable conversion of an existing building can be achieved.”

Policy SP27: Commercial development and highways

179. This policy seeks to require business related proposals which would result in a 5% or greater increase in Heavy Goods Vehicles traffic to demonstrate three specified criteria are met.

180. Two representations support the policy. Other representations state *“The approach of this policy is similar to that taken in the Vale of Evesham Control Zone in Policy COM.11A in District Local Plan and Policy CS.14 in emerging Core Strategy. Only land south of A46 in the Neighbourhood Plan area lies within the Control Zone and there is no justification for applying this approach over the rest of NP area, particularly as various A and B class roads run through it”* and

“Criterion b) An existing business should not have to demonstrate that they have looked at the possibility of wholly relocating before having the opportunity to expand on their existing site”.

181. It is unclear how economic benefits and traffic impact are to be assessed in order to determine whether the former outweigh the latter. The term *“better site with better access”* is imprecise. The Policy does not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. No proportionate, robust evidence to support the choice of the 5% or greater HGV traffic increase threshold is presented. The Framework states *“Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”*. I recommend the policy is deleted.

**Recommended modification 24:
Delete Policy SP27**

Policy SP28: Rural tourism

182. This policy seeks to encourage rural tourism.

183. A representation states *“Criterion c) encourages formal recreation proposals that would not require ‘large’ new buildings. Not entirely sure how this can be defined. Is this policy too restrictive as drafted? Should consideration be given to the possibility of new infrastructure in appropriate circumstances?”*

184. The terms *“appropriate to a rural area”*, *“informal recreation”*, *“part of wider”* *“formal recreation”*, and *“large new buildings”* are imprecise such that the policy does not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. I recommend the policy is deleted.

**Recommended modification 25:
Delete Policy SP28**

Policy SP29: Touring caravanning and camping sites

185. This policy seeks to encourage touring caravan and camping sites. A representation supports the policy.

186. The terms “small”, “good access”, “well screened”, and “appropriate access” are imprecise and I therefore recommend modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

187. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with building a strong, competitive economy; supporting a prosperous rural economy; and conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 26:

Replace Policy SP29 with “Proposals for new touring caravan and camping sites will be supported where they have safe road access; are screened from view off-site; and do not significantly adversely affect residential amenity or landscape character. Proposals for improvement of existing touring caravan and camping sites will be supported where they provide improved shops or recreation facilities serving site occupants only; or improve site access; landscaping; or the appearance of the site.”

Policy SP30: Development and the community

188. This policy relates to community issues.

189. Representations state:

- *“The aim of Policy SP30 is acknowledged although it is queried how the second half of this policy would work in practice”*
- *“As written, this is not a ‘land use’ based policy and is more aspirational in nature”*
- *“The proposal to create a village centre with a visual and functional focus would be very welcome”*
- *“This is important to correct the historic development of the village and create the desired socially coherent environment”*

- *“The development described earlier at Orchard Farm for homes and a Village Green could do much to encourage a more integrated community”*
- *“Community Cohesion is actively supported through the policy”.*

190. The terms *“seek to capitalise on”, “neighbourly community”, “appropriate circumstances”, “such as”, “other links”, and “unite”* are imprecise such that the Policy does not provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. I recommend deletion of the policy. With some adjustment the text of the policy could be presented as a community aspiration. The Guidance states, *“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.”* The presentation of community aspirations is consistent with this guidance and represents good practice.

191. The 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.”* I recommend that this approach is adopted. The justification for Policy SP8 would also benefit from being expanded with text transferred from this part of the Neighbourhood Plan.

Recommended modification 27:

Policy SP30 should be deleted and transferred to a separate community aspirations annex that is clearly identified as not forming part of the Neighbourhood Development Plan

Policy SP31: New and improved community buildings

192. This policy seeks to establish support for new, and improvements to existing, community buildings. The policy also establishes support for specific improvements to, or replacement of, The Other Place Salford and the Scout Building.

193. A representation states *“Developing existing community buildings is worthwhile”*. Another representation states an opportunity was lost when the Memorial Hall was converted many years ago and

plans should be more ambitious using Section 106 agreements from new development.

194. The final sentence of the policy is a statement rather than policy and is in any case superfluous as the content is already dealt with earlier in the policy. I recommend a modification in this respect in the interests of clarity so that the policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.
195. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 28:
In Policy SP31 delete the final sentence**

Policy SP32: Protecting community assets

196. This policy seeks to designate six buildings as community assets and restrict their development to circumstances where they are no longer viable and an alternative community use cannot be found within an active marketing period of at least 12 months.
197. A representation states *“The community should seek protection of these buildings under the Assets of Community Value Regulations 2012, as set out in part 5 of the Localism Act 2011. This policy may wish to include the ability for the loss of an existing community asset site provided the asset can be relocated elsewhere on an appropriately located site and provided that the replacement provision is of the same or better quantity or quality (akin to Policy SP35(a)). It would also be helpful to map these assets”*. Another representation states *“I believe the time-scale should be extended from 12 to 24 months”*. A period of active marketing for at least a year is sufficient to test the market. The policy should make provision for circumstances where an asset is replaced as part of a proposal and I have recommended an appropriate modification in this respect.

198. It is legitimate for the Neighbourhood Plan preparation process to provide a mechanism for the community to agree a list of assets that it values. The designation of assets of community value in the plan area will be undertaken by the District Council as the appropriate body, which is distinct from the local planning authority. The District Council has established a mechanism to nominate buildings and facilities for consideration and possible designation as assets of community value that is completely separate from neighbourhood plan preparation. The Parish Council should put forward the proposals for nomination via the appropriate route for consideration. The designation process which leads, in effect, to a community right to bid is concerned with control through ownership of assets and is not a land use policy. Only land use policies can be included in the Neighbourhood Plan. The Guidance states, *“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.”* The presentation of community aspirations is consistent with this guidance and represents good practice.

199. The 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.”* I recommend that this approach is adopted. This will require modification of the policy so that the proposal for designation of assets of community value is transferred to a non-statutory annex to the Neighbourhood Plan.

200. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with promoting healthy communities. The Framework states that planning policies and decisions should *“plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.”* The Framework also refers to *“guarding against unnecessary loss”* and *“retention for the benefit of the community.”* The second part of the policy if modified to refer to any assets designated as assets of community value by the

District Council would meet the basic conditions. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 29:
In Policy SP32**

- **The first sentence should be deleted and transferred to a non-statutory appendix to the Neighbourhood Plan and clearly so titled**
- **Replace the second sentence with “Development for non-community use of any assets designated by Stratford on Avon District Council as assets of community value under the Localism Act 2011 will only be supported where:**
 - **it is demonstrated the existing use is no longer viable; and**
 - **an alternative community use has not been found following an active period of marketing of at least 12 months**

unless an alternative facility of at least equal community value, and accessibility to the community, is provided as part of the proposal”

Policy SP33: Community safety

201. This policy seeks ensure developments accommodate satisfactory community safety design aspects.

202. One representation supports the policy generally and another states *“Part (a) of Policy SP33 will enable the emergency services to attend incidents and individuals quickly, which help to prevent crime and in certain cases, save lives. Part (b) will ensure that in the Parish incidences of deaths, injuries and property damage as a result of fire will be reduced. Both of the above combined enhance the consistency of the Plan with paragraphs 58 and 69 of the NPPF”*.

203. The term *“where appropriate”* introduces uncertainty and the words *“suitable”* and *“natural features”* are imprecise and I therefore recommend modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

204. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic

policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with requiring good design and promoting healthy communities. Subject to the recommended modification this Policy meets the basic conditions.

Recommended modification 30:

In Policy SP33

- delete the first “that” and insert “the following”
- delete “included within the proposal, and, where appropriate, the following have been”
- delete part b)
- in part c) delete “suitable”; insert “and” before “spaces”; and delete “and natural features”

Policy SP34: Contributions to new infrastructure and facilities

205. This policy seeks to establish that new development will be required to contribute to essential community infrastructure.

206. Five representations support the policy including considerable detail stating the case for contributions to policing activities. Two representations question the listing of services to be supported however I note these follow the words “*such as*”. Another representation suggests that an Infrastructure Delivery Plan with priorities should also accompany the plan however this is not necessary to meet the basic conditions.

207. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with requiring good design and promoting healthy communities. This Policy meets the basic conditions.

Policy SP35: Leisure and recreation facilities

208. This policy seeks to support the retention or improvement of leisure and recreation facilities and new provision including the creation of a village green.

209. A representation supports the policy. Another representation questions whether the reference to creation of a Village Green space could be changed to blue-green space and another representation suggests the policy should include enhancement of the Playing Field. It is not within my role to recommend modification to introduce additional elements of policy.

210. The terms “*local sports teams*” and “*who need to make*” and “*village centre*” and the requirement for each new leisure facility “*to provide activities for all age groups*” are imprecise and I therefore recommend modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

211. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan for the area, the Stratford-on-Avon District Core Strategy adopted on 11 July 2016. The Policy has regard to the components of the Framework concerned with promoting healthy communities and conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 31:
In Policy SP35**

- in part b) delete “Development by local sports teams who need to make”
- in part c) delete “activities for all age groups, such as:”
- in part d) delete “centre/”

Summary and Referendum

212. I have recommended 31 modifications to the Submission Draft Plan. I have also made a recommendation for modification of the Neighbourhood Plan in the Annex below.

213. I am satisfied that the Neighbourhood Plan³⁸:

³⁸ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the basic conditions:
 - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;
 - the making of the neighbourhood plan contributes to the achievement of sustainable development;
 - the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);
 - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
 - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.³⁹

I recommend to Stratford-on-Avon District Council that the Salford Seven Neighbourhood Development Plan for the plan period up to 2031 should, subject to the modifications I have put forward, be submitted to referendum.

214. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.⁴⁰ I have seen nothing to suggest the referendum area should be extended beyond the designated Neighbourhood Area.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by the District Council as a Neighbourhood Area on 16 June 2014.

³⁹ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁴⁰ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

Annex: Minor Corrections to the Neighbourhood Plan

I am able to recommend modification of the Neighbourhood Plan in order to correct errors.⁴¹

A number of consequential modifications to the general text of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

Recommendations of deletion of policies and of parts of policies will necessitate renumbering.

Recommended modification 32:

- **Modification of general text will be necessary to achieve consistency with the modified policies**
- **Renumbering of policies and parts of policies will be necessary as a result of recommended deletions**

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31 August 2016
REPORT ENDS

⁴¹ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990