

CLAIM NO. CO/323/2022

**IN THE HIGH COURT OF JUSTICE
ADMINISTRATIVE COURT
PLANNING COURT**

**PLANNING AND COMPULSORY
PURCHASE ACT, 2004, SECTION 113**

BETWEEN:

NORTON ST PHILIP PARISH COUNCIL

Claimant

- and -

MENDIP DISTRICT COUNCIL

Defendant

- and -

(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES

(2) LOCHAILORT INVESTMENTS LIMITED

(3) REDROW HOMES LIMITED

Interested Parties

CORE TRIAL BUNDLE

TRIAL DIET: 18 AND 19 OCTOBER 2022

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CORE TRIAL BUNDLE

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¹ The pleadings include cross-references to pages in the permission stage bundles. Updated cross-references to the relevant pages of the trial bundles have been inserted in square brackets in the right-hand margin where relevant in order to assist the court.

² Standing as the Defendant's Detailed Grounds of Defence

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NB References in square brackets are to the relevant entries in the LPP2 examination library.

CLAIM NO.

**IN THE HIGH COURT OF JUSTICE
CARDIFF DISTRICT REGISTRY
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BETWEEN:

NORTON ST PHILIP PARISH COUNCIL

Claimant

- and -

MENDIP DISTRICT COUNCIL

Defendant

- and -

(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES

(2) LOCHAILORT INVESTMENTS LIMITED

Interested Parties

**CLAIMANT'S STATEMENT OF
FACTS AND GROUNDS**

References in the form:

- *[Core/x]* are references to page (x) numbers in the Core Claim Bundle;
- *[Supp/y]* are reference to page (y) numbers in the Suppletery Claim Bundle; and
- *[IR xx]* are to paragraph numbers in the Inspector's examination report *[Core/119 to 162]*. **[Core / 190 to 233]**

Relevant statutory extracts and a list of suggested essential reading are appended to this statement of facts and grounds.

Introduction

1. By this claim for statutory review pursuant to section 113 of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act"), the Claimant seeks to challenge the Defendant's decision to adopt the *Mendip District Local Plan 2006-2029 Part II: Sites and Policies* ("LPP2") on 20 December 2021.

2. The Claimant is a parish council located within north-east of the Defendant's administrative area. The Claimant took part in the additional examination hearings that took place to discuss whether to modify the submission version of LPP2 to allocate 505 new dwellings within the north-east of the plan area, which included an additional allocation for 27 dwellings within the Parish of Norton St Philip, where it objected to the general approach and the specific allocations.
3. The Secretary of State is listed as an Interested Party because, whilst the decision to adopt LPP2 was not taken by him, it was nevertheless largely informed by the reasoning and decisions of his appointed inspector during the examination and in the subsequent report to the Defendant. Lochailort Investments Limited has also been listed as an Interested Party both at its own request [Core/427] and because it is currently promoting [Supp / 425] a planning application in respect of allocation NSP1.

Relevant Factual Background

Local Plan Part 1

4. On 15 December 2014, MDC adopted the *Mendip District Local Plan 2006-2029 Part I: Strategy and Policies* ("LPP1") [Core/293 to 353]. LPP1 forms part of the statutory development plan for the non-metropolitan district of Mendip in Somerset ("the District"). [Core / 245 to 305]
5. LPP1 "*sets out the long term strategic vision for the future of the District and how it will develop over the next 15 years*".¹ Sections 1-3 set out the introduction to LPP1 and the Vision for Mendip. Section 4 (Core Policies 1 – 5) sets out the Spatial Strategy. Section 5 (Core Policies 6 – 10) set out the town strategies for the principal settlements, which include strategic allocations. Section 6 then sets out local development management policies.
6. Core Policy 1 identifies the Spatial Strategy, which includes a settlement hierarchy [Core/321 to 326]. In summary, it provides that: [Core / 273 to 278]

¹ LPP1, para. 1.1. [Core/296]

- a. The majority of development will be directed towards the five principal settlements of Frome, Glastonbury, Shepton Mallet, Street and Wells.
 - b. In the rural parts of the District, new development that is tailored to meet local needs will be provided for in 16 Primary Villages (including Norton St Philip and Beckington) and 13 Secondary Villages.
 - c. In other villages, hamlets and the open countryside, new development is generally restricted unless certain policy requirements are satisfied.
 - d. The scale of housing development within the settlement tiers is set out within the tables associated with Core Policy 2.
7. Core Policy 2 sets out the overall housing requirement, stating that “*provision for a minimum of 9,635 additional dwellings will be made in line with the table below over the plan period from 2006 to 2029*” [Core/327 to 336]. The table in the policy [Core/335 to 336] then divides the housing requirement between different settlement groups in the settlement hierarchy. It includes an additional 505 dwellings for the whole of the District, the justification for which is provided in para. 4.21 of the supporting text. This states that [Core/327]: [Core / 279 to 288] [Core / 287 to 288]
- “The Review of Housing Requirements (2013) and the rolling forward of the plan period to 2029 will result in an additional requirement for 505 dwellings in the District. This will be addressed in Local Plan Part II: Site Allocations which will include a review of Future Growth Areas identified in this plan...Allocations from this roll-forward are likely to focus on sustainable locations in accordance with the Plan’s overall spatial strategy as set out in Core Policy 1 and may include land in the north/north-east of the District primarily adjacent to the towns of Radstock and Midsomer Norton in accordance with paragraph 4.7 above.” [Core / 279]
8. Paragraph 4.7 of the supporting text states that [Core/322]: [Core / 274]
- “The towns of **Radstock** and **Midsomer Norton** lie on the norther fringe of Mendip district. The main built extent of these towns lie in Bath and North East Somerset; but some built development exists within Mendip and other built and permitted development immediately abuts the administrative boundary. The Local Plan, whilst taking into account development opportunities on land abutting the towns, does not make any specific allocations for development, particularly for housing. The Council will consider making specific allocations as part of the Local Plan Part II Site Allocations to meet the development needs of Mendip which have not been specifically allocated to any particular location in this Part I Local Plan...” (emphasis in original)
9. Core Policy 2 goes on to explain that housing delivery will be secured from [Core/335]: [Core / 287]

- a. Infill, conversions and redevelopments within the Development Limits defined in the Policies Map that are policy compliant.
- b. Strategic Sites identified on the Key Diagrams for each principal settlement.
- c. Other allocations identified through the Site Allocations process in line with:
 - (i) The principle of the proportionate growth in rural settlements guided by the requirements within the supporting text to the policy.
 - (ii) Informed by the views of the local community
 - (iii) The contribution of development since 2006 towards identified requirements in each place, development with planning consent and capacity within existing development limits.

Local Plan Part 2

10. As envisaged by LPP1, MDC prepared a draft *Mendip District Local Plan 2006-2029 Part II: Sites and Policies* development plan document ("LPP2") [Core/46 to 102].

[Core / 117
to 173]

Insofar as is relevant, the stated purposes of LPP2² were to:

- a. identify and allocate additional sites for housing to meet the requirements for affordable and market housing set out in LPP1;
- b. ensure there are sufficient sites to enable a rolling five year supply of housing land in the district; and
- c. update development limits around towns and villages.

11. LPP2 does not revisit the strategic housing and employment policies in LPP1. Instead, it “*allocates specific sites for development or for other purposes in line with the intentions of the policies in the Part I document*”.³

12. The draft LPP2 [Core/250 to 292] was submitted for examination on 23 January 2019 with Inspector Mike Fox (“the Inspector”) appointed as the examining inspector on 29 January 2019. The Claimant supported the draft LPP2 as submitted and, as a result, was not invited to participate in the initial round of examination hearings held between 23 July and 22 August 2019 by the Inspector.

[Supp / 5 to
47]

² As set out in para. 1.2 of LPP2 at [Core/50].

[Core / 121]

³ LPP2, para. 1.4. See, also, para. 1.5 – 1.6 on the “Relationship to other Planning Documents” [Core/50 to 51].

[Core / 121
to 122]

13. The submission version of LPP2 did not incorporate specific housing allocations aimed at meeting the need for an additional 505 dwellings arising from the roll-forward of the plan period for LPP1. Paragraph 3.33 of the submission plan explained that this was because this requirement *“has been largely met through non-Plan commitments and...does not need to be specifically addressed in Local Plan Part II”*, with further explanation provided in the Housing Background Paper. Paragraph 3.34 went on to explain why no land was proposed for allocation on the edge of the District near West Field, Midsomer Norton and Radstock [Core/262]. [Supp / 17]
14. During the course of the examination, the Inspector issued a request dated 25 July 2019 (ED11) for a note from the Council *“on the status of the 505 dwellings which are identified in Core Policy 2 taking into account the references in LPP1 paragraphs 4.5, 4.21 and paragraph 23 of the LPP1 Inspector’s Report”* [Supp/4 to 5]. [Supp / 48 to 49]
15. The Council’s response (IQ-7) stated that its view was that the relevant paragraphs of LPP1 *“do not direct LPP2 to address a specific quantum of planned growth or create a specific requirement for this to be located adjacent to Midsomer Norton and Radstock”* [Supp/6]. It also explained that LPP2 does not make additional allocations in primary and secondary villages in the north east of the district because they have *“already significantly exceeded the minimum requirement”* [Supp/7]. [Supp / 50]
[Supp / 51]
16. Following the initial examination hearings, the Inspector issued an Interim Note (ED20) dated 10 September 2019 setting out his post hearing advice. Paragraphs 16 – 20 deal with Land to the North-East of Mendip District. In doing so, the Inspector states that: *“paragraph 4.21 in LPP1 refers to the requirement to address the housing needs of the north-eastern part of the District, including land adjacent to the towns of Radstock and Midsomer Norton...”* (emphasis added). He went on to explain that *“it seems to me that there is a strategic expectation that allocations for development in this part of the Plan area should be considered”* and *“in these circumstances it is appropriate for this additional element of 505 dwellings to be apportioned to sustainable settlements in the north-east part of the District, both on sites adjacent to the two aforementioned towns within BANES, and possibly also within other settlements which lie within the District”* [Core/241 to 242]. [Core / 236 to 237]

17. Appended to the Interim Note was a Draft Schedule of Main Modifications (MMs), which included MM5 regarding the additional 505 dwellings [Core/248]: [Core / 243]
- “MM5 Allocation of 505 additional dwellings (with reference to the table in core policy CP2 and para. 4.21 of the supporting text) in the north-east of the District, at sites adjacent to Midsomer Norton and Radstock, and on sustainable sites at primary and secondary villages within this part of the District. All the sites considered for possible allocations, including those identified in Note IQ-3, will be subject to Sustainability Appraisal”.
18. MDC's approach to identifying potential additional allocations – to be effected through Main Modifications – was set out in a Background Paper (SDM44) dated January 2020 [Supp/227 to 245]. In summary, some 455 dwellings were allocated on sites adjoining Midsomer Norton and Radstock, with a further three allocations made in the Primary Villages of Beckington (28 dwellings), Norton St Philip (27 dwellings) and Rode (26 dwellings). MDC did not assess the availability or suitability of potential allocations in any of the district's principal settlements or any Primary or Secondary Villages outwith the 'north/north-east' area of search that had been identified. [Supp / 347 to 365]
19. A Second Addendum to the Sustainability Appraisal (SDM41) (“the Second SA Addendum”) was also produced to consider the MMs [Supp/150 to 165].⁴ The Second SA Addendum simply appraised the site options in the north-east of the District and the implications of including the additional allocations that were proposed as part of the uplift in housing growth. No consideration was given to any alternatives to MM5, either through an alternative approach to meeting the additional 505 dwellings or through consideration of alternative sites outside of the north-east. [Supp / 270 to 285]
20. A consultation on the proposed MMs was held between 21 January and 2 March 2020. Following consideration of the consultation responses, including those of the Claimant and the neighbouring local planning authority Bath and North East Somerset Council ("BANES") [Supp/17 to 34], the Inspector decided to hold further examination hearings to consider the MMs relating to development in the north-east part of the plan area. [Supp / 137 to 154]

⁴ A previous SA addendum had already been produced to appraise proposed changes to the plan following pre-submission consultation, but is not relevant to this case.

Further Matters and Issues were issued on 29 June 2020 [Supp/15 to 16] and the Inspector held additional virtual hearings between 24 November and 2 December 2020. [Supp / 59 to 60]

21. The Claimant and BANES submitted hearing statements in relation to all 4 Matters [Supp/93 to 112]. These made clear that, although consideration should be given to allocations in the north-east of the District, there was no strategic expectation that the north-east should be considered in isolation and the District must be considered as a whole in accordance with the spatial strategy. Contrary to what is said at paragraph 19(c) and (g) of the Defendant's pre-action response [Core/423], the Claimant's and BANES' written representations and hearing statements during the examination also made the point that there had been a failure to consider realistic alternatives and the SA must be expanded to consider other sites [Supp/22 to 24⁵, 33⁶, 96 to 97⁷, 109 to 110⁸]. [Supp / 213 to 232] [Supp / 421] [Supp / 142 to 144, 153, 216 to 217, 229 to 230]

Inspector's Report

22. The Inspector's Report ("IR") was issued on 1 September 2021 [Core/119 to 162], following further consultation on some additional MMs arising from the stage 2 examination hearings. [Core / 190 to 233]
23. IR 5 – 10 sets out the background to the consideration of the allocation of 505 additional dwellings following the publication of the Inspector's Interim Note.
24. The additional SA work undertaken to support the additional dwellings is considered at IR 40 – 41, which state that:
- “...These documents considered the sustainability and ecological impacts of all the additional sites proposed for development and they conclude that the ‘preferred option’ sites are sustainable...”
- The Council's 505 Dwellings Background Paper also explains that realistic alternative sites were considered around Midsomer Norton and Radstock, as well as assessing the suitability of villages within the north-east of the District, based [sic] a set of criteria covering key elements of sustainability.”

⁵ See especially paras. 4.16 and 4.25

⁶ Para. 4.16

⁷ Paras. 2.3 and 2.5

⁸ Paras. 5 and 8

25. Under Issue 3.2, the Inspector considered whether the overall distribution of housing in the submitted Plan was sound and in accordance with LPP1. At IR 53 he explains that it is *“broadly in line with LPP1, with one significant exception”* regarding the *“additional requirement”* of 505 dwellings.
26. The Inspector went on to consider the genesis of this “additional requirement”, before concluding that *“it is necessary, in the interests of soundness, to consider whether a case can be made to include housing allocations in the Plan which focus primarily on these towns on the fringe of the District”* [IR 61].
27. Despite acknowledging that the LPP1 Key Diagram [Core/324] states that these [Core / 276] dwellings are *“to be allocated in the District”*, the Inspector stated that *“spreading any additional development generally across the District and not in the north-east of Mendip...would be contrary to the strategic thrust of paragraphs 4.21 and 4.7 in the LPP1, which focus on the need to consider making specific allocations with reference to the towns of Radstock and Midsomer Norton rather than distributing the additional development generally across the District”* [IR 65].
28. At IR 71 that Inspector concludes that: *“It is clear to me that the strategic direction in LPP1 requires the Council to consider development allocations to meet the needs in the north-east of the District”*.
29. The Inspector then considered the economic, social and housing needs evidence to justify the allocation of 505 dwellings in the north-east of the District. In doing so, he relied considerably on the findings in the SA Second Addendum to support the proposed allocations.⁹

Adoption

30. On 20 December 2021, the Council accepted the MMs recommended by the Inspector for the reasons set out in the IR and agreed to adopt LPP2 subject to those MMs and a number of additional minor modifications [Core/103 to 118].

[Core / 174
to 189]

⁹ See IR 72 and 83 – 85 [Core/134 to 136].

[Core / 205
to 207]

Legal Framework

General principles regarding approach to s. 113 challenges

31. Any challenge to the adoption of a development plan document must be brought by way of statutory review under section 113 of the 2004 Act.
32. The Court's jurisdiction under s. 113 is confined to conventional public law principles for judicial review and statutory review (*Flaxby Park Ltd v Harrogate BC* [2020] EWHC 3204 (Admin), per Holgate J. at [124]).
33. Decisions of the Secretary of State and his Inspectors should be construed benevolently as a whole, in a reasonably flexible way (*St Modwen Developments Ltd v SSCLG* [2017] EWCA Civ 1643, per Lindblom LJ at [7]).
34. The proper interpretation of planning policy is ultimately a matter of law. Policies should be interpreted objectively by the court in accordance with the language used and read in its proper context. A failure properly to understand and apply relevant policy will constitute a failure to have regard to a material consideration, or will amount to having regard to an immaterial consideration (see the judgment of Lord Reed in *Tesco Stores v Dundee City Council* [2012] P.T.S.R. 983, at paragraphs 17 to 22).
35. In *Phides Estates v SSCLG* [2015] EWHC 827 (Admin), Lindblom J (as he then was) held at [56] that where a policy is neither obscure nor ambiguous it is not necessary or appropriate to resort to other documents outside the local plan to help with the interpretation of policy:

“I do not think it is necessary, or appropriate, to resort to other documents to help with the interpretation of Policy SS2. In the first place, the policy is neither obscure nor ambiguous. Secondly, the material on which Mr Edwards seeks to rely is not part of the core strategy. It is all extrinsic – though at least some of the documents constituting the evidence base for the core strategy are mentioned in its policies, text and appendices, and are listed in a table in Appendix 6. Thirdly, as Mr Moules and Mr Brown submit, when the court is faced with having to construe a policy in an adopted plan it cannot be expected to rove through the background documents to the plan's preparation, delving into such of their content as might seem relevant. One would not expect a landowner or a

developer or a member of the public to have to do that to gain an understanding of what the local planning authority had had in mind when it framed a particular policy in the way that it did. Unless there is a particular difficulty in construing a provision in the plan, which can only be resolved by going to another document either incorporated into the plan or explicitly referred to in it, I think one must look only to the contents of the plan itself, read fairly as a whole. To do otherwise would be to neglect what Lord Reed said in paragraph 18 of his judgment in *Tesco Stores Ltd. v Dundee City Council*: that '[the] development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it', that the plan is 'intended to guide the behaviour of developers and planning authorities', and that 'the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained'. In my view, to enlarge the task of construing a policy by requiring a multitude of other documents to be explored in the pursuit of its meaning would be inimical to the interests of clarity, certainty and consistency in the 'plan-led system'. As Lewison L.J. said in paragraph 14 of his judgment in *R. (on the application of TW Logistics Ltd.) v Tendring District Council* [2013] EWCA Civ 9, with which Mummery and Aikens L.JJ agreed, 'this kind of forensic archaeology is inappropriate to the interpretation of a document like a local plan ...'. The 'public nature' of such a document is, as he said (at paragraph 15), 'of critical importance'. The public are, in principle, entitled to rely on it 'as it stands, without having to investigate its provenance and evolution'"

36. *Phides* was cited with approval by Patterson J. in *Gallagher Ltd v Cherwell District Council* [2016] EWHC 290 (Admin) at [42] – [46], which held that it was not appropriate to resort to the inspector's report to clarify the meaning of a policy.

37. In *Flaxby* at [127] Holgate J. provided the following summary of the approach that should be taken to the adequacy of reasons given in an Inspector's report on the examination of a plan:

"The tests for the adequacy of the reasons given in an Inspector's report on the examination of a plan is that laid down in *South Bucks v Porter (No.2)* [2004] 1 WLR 1953. The crucial question is whether the Inspector's reasons give rise to a substantial doubt as to whether he has committed an error of public law. But such an inference will not readily be drawn. In a planning appeal the reasons need only refer to the main issues in dispute and not to every material consideration ([36]). Reasons are addressed to a knowledgeable audience"

familiar with the material before the examination and they may be briefly stated (*CPRE Surrey v Waverley Borough Council* [2019] EWCA Civ 1896 at [71]-[76]. In the CPRE case Lindblom LJ added at [75]:-

"Generally at least, the reasons provided in an inspector's report on the examination of a local plan may well satisfy the required standard if they are more succinctly expressed than the reasons in the report or decision letter of an inspector in a section 78 appeal against the refusal of planning permission. As Mr Beglan submitted, it is not likely that an inspector conducting a local plan examination will have to set out the evidence given by every participant if he is to convey to the "knowledgeable audience" for his report a clear enough understanding of how he has decided the main issues before him."

38. Where the judgment is that of an expert tribunal such as a planning inspector, the threshold for irrationality is a difficult one for a claimant to surmount (*Newsmith Stainless Limited v Secretary of State for Environment, Transport and the Regions* [2001] EWHC 74 (Admin). However, it may be met where there is an error of reasoning which robs the decision of logic (*R v Parliamentary Commissioner for Administration, ex p. Balchin (No 1)* [1997] JPL 917, per Sedley J. at [27]).

Requirement for SA and SEA

39. Section 19 of the 2004 Act sets out the requirements for the preparation of local development documents. Subsection 5 provides that a local planning authority must carry out an appraisal of the sustainability of the proposals in each development plan document and prepare a report of the findings of the appraisal.
40. The preparation of a sustainability appraisal ("SA") ensures that the local planning authority satisfies the broad requirement in section 39(2) of the 2004 Act to prepare a local development document with the objective of contributing to the achievement of sustainable development.
41. The preparation of an SA also integrates the need to carry out an environmental assessment of plans and programmes, otherwise known as strategic environmental assessment ("SEA"), which is required under regulation 5 of the Environmental Assessment of Plans and Programmed Regulations 2004 ("the SEA Regulations").

Therefore, the SA must satisfy the requirements in the SEA Regulations for an “environmental report” (*Flaxby*, per Holgate J. at [26]).

42. In accordance with regulation 12(2) of the SEA Regulations, the environmental report must identify, describe and evaluate the likely significant effects of the reasonable alternatives to the plan taking into account the objectives and geographical scope of the plan.

43. The identification and treatment of reasonable alternatives is a matter of "evaluative assessment" for the authority (*Friends of the Earth* at [87]-[89] and *Ashdown Forest Economic Development LLP v Wealden District Council* [2016] PTSR 78 at [42] subject to review only on public law grounds. However, as Holgate J. observed in *Flaxby* at [129]:

“In *Spurrier* [at 422 – 434] the Divisional Court drew a distinction between the failure by an authority to give any consideration at all to a matter which it is expressly required by the 2004 Regulations to address, namely whether there are reasonable alternatives to a proposed policy, which may amount to a breach of those regulations, as opposed to issues about the non-inclusion of information on a particular topic, or the nature or level of detail of the information provided to or sought by the authority, or the nature or extent of the analysis carried out...”

44. Where there is a failure to consider reasonable alternatives, there will be a breach of the requirements of the SEA Regulations and the relevant policies should be quashed. For example:

- a. In *City and District Council of St Albans v Secretary of State for Communities and Local Government* [2009] EWHC 1280 (Admin) at [21] – [22] a number of policies in a revision to the East of England Plan were quashed on the basis that there had not been any evaluation of alternatives to those policies, which proposed an increase in the number of homes to be built around three towns.
- b. In *Heard v Broadland DC* [2012] EWHC 344 (Admin) at [58] – [70] it was found that there had been a failure to carry out an assessment of an alternative to the preferred option and no reasons had been given for rejecting the alternative or selecting the preferred option.

- c. In *Ashdown Forest Economic Development LLP v SSCLG* [2015] EWCA Civ 681 at [42] the Court of Appeal upheld a challenge to a policy requiring mitigation measures from housing development located within 7km of Ashdown Forest, which was designated as an SAC and SPA, on the basis that there was no evidence of any consideration being given to reasonable alternatives to the policy.

Grounds of Challenge

Ground 1: Misinterpretation of LPP1

45. The approach to the Additional 505 Dwellings and the need for main modifications to allocate further development in the north-east of the District was founded upon a misinterpretation of LPP1. Namely, the Inspector wrongly considered that LPP1 created a “*strategic direction*”¹⁰ or “*strategic expectation*”¹¹ that 505 additional dwellings should be allocated in the north-east part of the District. This misinterpretation is further reflected in the additional supporting text provided for the new allocations at NSP and Beckington, which state that “*Following examination hearings, additional allocations are necessary to make the plan sound, specifically to address the requirement in Policy CP2 to provide 505 dwellings located adjacent to Midsomer Norton and Radstock and in settlements in the north/northeast of the district*” (emphasis added).¹²
46. LPP1 is clear and unambiguous, and should have been interpreted having regard to the wording of its policies and the supporting text in the usual way, without the need for any recourse to external documents (*Phides* at [56]). The Inspector’s approach to the Interpretation of LPP1, which sought to discover the “*genesis of the LPP1 requirement for the allocation of an additional 505 dwellings*” (emphasis added) [IR 56], and proceeded to give detailed consideration of the LPP1 Inspector’s Report was impermissible and resulted in a flawed starting point for the interpretation of LPP1 (*Gallagher* at [46]).
47. Correctly interpreted, LPP1 requires subsequent allocations to be delivered in accordance with Core Policy 1 (“CP1”), which sets out the spatial strategy, and Core

¹⁰ IR 71 [Core/134].

¹¹ Para. 17 of the Interim Note (ED20) at [Core/241] and IR 58 [Core/132].

¹² See paras. 11.2.2 and 11.20.3 of LPP2 [Core/79 and 87].

Policy 2 (“CP2”), which deals with the provision of new housing. This is unsurprising and should have been uncontroversial.

48. CP2.1 states that “*provision for a minimum of 9,635 additional dwellings will be made in line with the table below*”.¹³ As CP1.2 explains, the table then sets out the scale of housing development within the settlement tiers. The 505 additional dwellings are distributed to the “*District*”. If there was any doubt about this (which there is not), it is confirmed by a box on the Mendip Key Diagram.¹⁴ Under the heading “*DISTRICT WIDE*” the box states that “*An additional 505 dwellings to be allocated in the district*” (emphasis added). CP2.2 then sets out how the delivery of the identified quantum of housing will be secured. Sub-paragraph (c) is intended to guide the approach to other site allocations.

49. The Inspector’s misinterpretation of CP2 is evident from IR 55, where the Inspector states that “*Core Policy 2 refers to this ‘additional requirement’ to be provided in line with paragraph 4.21 of the LPP1*” (emphasis added). However, this summary of the policy is materially incorrect. The wording does not state that the additional requirement is to be provided “in line with para. 4.21”. It states that it “*will be made in line with the table below*”, which (as explained above) indicates that the Additional 505 Dwellings will be provided in the District.

50. The reference to para. 4.21 in the table in Core Policy 2 is simply intended to explain where the additional requirement of 505 dwellings comes from. It is not intended to create an alternative mechanism for the delivery/ allocation of those dwellings. Nor could it given its status as supporting text to the policy. However, the Inspector relies upon his misstatement of CP2 to justify his misinterpretation that CP2 requires the 505 dwellings to be provided in accordance with paras. 4.21 and, in turn, para. 4.7, both of which he considers “*address not just housing numbers, but also strategic and qualitative housing distribution*” (emphasis added) [IR 55].

¹³ Due to a formatting error in the public version of LPP1, the text in the table at CP2.1 is selectable, but not visible [Core/335]. As such, a copy of the relevant text from the table has been included on the next page in the bundle [Core/336].

¹⁴ See [Core/324].

[Core / 287]

[Core / 288]

[Core / 294]

51. The Inspector's misplaced focus on paras. 4.21 and 4.7 continues throughout his analysis of whether the "*intended location [for the additional 505 dwellings] is within the north-east of the District*" [IR 56]. At IR 65 the Inspector considers the wording of the box in the Mendip Key Diagram set out above. He notes that "*This was raised by representors in support of spreading any additional development generally across the District, and not in the north-east of Mendip*". However, he disagrees with this analysis on the basis that it "*would be contrary to the strategic thrust of paragraphs 4.21 and 4.7 in the LPP1, which focus on the need to consider making specific allocations with reference to the towns of Radstock and Midsomer Norton rather than distributing the additional development generally across the District*". Whilst supporting text is relevant to the interpretation of a policy, it is not policy, does not have the force of policy and cannot trump the policy (*R (Cherkley Campaign Ltd v Mole Valley DC* [2014] EWCA Civ 567 at [16]). Therefore, the supporting text in paras. 4.21 and 4.7 cannot trump the wording of CP2. Moreover, the perceived conflict which the Inspector identifies at IR 65 only arises on the basis of his misinterpretation of paragraph 4.21 (discussed below). Properly interpreted, the supporting text of LPP1 is entirely consistent with the wording of CP2, as one would expect.
52. Even if the Inspector is correct that paragraph 4.21 should somehow be elevated to the status of a policy which is intended to set the strategic direction for the allocation of the Additional 505 Dwellings, the Inspector has also misinterpreted this paragraph.
53. At IR 70 the Inspector states that "*Although paragraph 4.21 states that the additional 505 dwellings 'may' rather than 'will' include allocations in the north-east of the District, I consider it significant that nowhere else in Mendip is singled out for comment, in either the IR or in LPP1 in relation to where the 505 additional dwellings requirement should be allocated*" (emphasis added). On the basis of this analysis, the Inspector concludes at IR 71 that "*the strategic direction in LPP1 requires the Council to consider development allocations to meet the needs in the north-east of the District*".
54. When paragraph 4.21 is read as a whole and in its proper context (as it must be), it is clear that the reason that land in the north/north-east of the District primarily adjacent

to the towns of Radstock and Midsomer Norton is “singled out for comment” is because this area would not otherwise fall within the relevant tiers of the spatial strategy.¹⁵ The last sentence of para. 4.21 simply states that allocations for the additional 505 dwellings “are likely to focus on sustainable locations in accordance with the Plan’s overall spatial strategy as set out in Core Policy 1 **and may include** land in the north/north-east...in accordance with paragraph 4.7 above” (emphasis added). In other words, it is explaining that consideration may also be given to the north-east of the District (in addition to the principal settlements and identified villages) in accordance with paragraph 4.7, which states that “*The Council will consider making specific allocations [on land abutting the towns of Radstock and Midsomer Norton] as part of the Local Plan Part II Site Allocations to meet the development needs of Mendip which have not been specifically allocated to any particular location in this Part I Local Plan*”.

55. By focusing on the fact that the land in the north-east is the only area to be singled out for comment, the Inspector has disregarded the plain ordinary meaning of the words of paragraph 4.21 and sought to apply some hidden meaning into them. In doing so, he has misinterpreted para. 4.21 and the approach that should be taken in LPP1.
56. In the further alternative, the Inspector also misinterpreted LPP1 by treating it as including a general requirement for consideration to be given to additional allocations in the north-east of the District, as opposed to limiting this to land abutting or adjacent to the towns of Radstock and Midsomer Norton in accordance with paras. 4.7 and 4.21. There was no requirement to give special consideration to other primary or secondary villages in the north-east of the District because these already formed part of the settlement hierarchy, where development should be considered in accordance with the requirements of CP2.2(c).
57. The Defendant’s pre-action response to this ground of challenge does not engage with the correct interpretation of LPP1. Instead, it seeks to characterise this ground of challenge as a challenge to the exercise of the Inspector’s planning judgement. In doing so, it misses the basic point that if the Inspector’s analysis of where the additional 505

¹⁵ This land would otherwise constitute open countryside where development “will be strictly controlled” unless “exceptionally...permitted in line with the provisions set out in Core Policy 4” (per LPP1, CP1.1.c [Core/323]). [Core / 275]

dwelling should go proceeded upon the basis of a misinterpretation of LPP1 in the first place then it will have been infected by an irrelevant consideration (*St Modwen Developments v SSCLG* [2017] EWCA Civ 1643 at [6(4)]). LPP1 must be objectively construed, and the Inspector could not make it mean whatever he would like it to mean (*Tesco Stores* at [19]). The fact that there were lengthy debates about this issue at the examination also does not assist the Defendant. It simply emphasises that the correct interpretation of LPP1 and how it expected the additional 505 dwellings to be treated was a principal important controversial issue that the Inspector needed to determine. The Inspector sought to do so under a separate sub-heading at IR 56 – 72, but he continued to misinterpret LPP1. That misinterpretation is reinforced by the Defendant’s pre-action response, which notes that the purported “strategic expectation” stemmed from the LPP1 inspector’s report, and the Inspector gave particular regard to the text that had been inserted as main modification.¹⁶

58. The reliance that is placed by the Defendant upon the judgments of the High Court¹⁷ and Court of Appeal¹⁸ in *Lochailort Developments Ltd v Mendip DC* at paragraph 23 of its pre-action response [Core/425] is also misplaced. The courts in this case were not directly considering the correct interpretation of LPP1 and whether or not it required the additional 505 dwellings to be located in the north-east. They were considering whether the LPP2 Inspector’s (flawed) conclusion that this was the case rendered the decisions made by those examining the Claimant’s neighbourhood plan unlawful, and any comments on the correct interpretation of LPP1 and CP2 were strictly *obiter*. [Supp / 423]

59. In short, the Inspector has misinterpreted LPP1 by considering that it required the additional 505 dwellings to be allocated in the north east of the District or, at the very least, set a “strategic expectation” that required primary consideration to be given to whether they could be allocated in this location rather than anywhere else in the District.

¹⁶ See para. 14(f), at [Core/422].

¹⁷ [2020] EWHC 1146 (Admin) at [80] – [81], [100] and [124] – [125].

¹⁸ [2021] 2 P & CR 9 at [49] – [56].

Ground 2: Failure to consider reasonable alternatives to allocating additional 505 dwellings in the north east of the District

60. Regulation 12 of the SEA Regulations required the Council to identify, describe and evaluate the likely significant effects on the environment of implementing the plan and reasonable alternatives to it.

61. In his Interim Note, the Inspector directed that the additional element of 505 dwellings should be apportioned to sustainable settlements in the north-east part of the District. This was accompanied by proposed MM5, which required “*Allocation of 505 additional dwellings...in the north-east of the District*” [Core/241 and 248].

[Core / 236
and 243]

62. The introduction of a requirement to allocate 505 dwellings within the north-east part of the District represented a major policy change to the approach taken in the submitted plan, which did not include any specific allocations for these dwellings and did not apportion any particular quantum of dwellings to the north-east. The Inspector rightly recognised that the proposed modification would need to be subject to SA. However, the SA was confined to consideration of alternative sites *within* the north-east of the District, as the Defendant has confirmed in its pre-action response.¹⁹ No consideration whatsoever was given in the SA to whether there were any reasonable alternatives to allocating these additional dwellings within this part of the part of the District in the first place. Instead, the Council treated the Inspector’s direction as a requirement which had to be met. This is clear from the 505 Dwellings Background Paper [Supp/227 to 245], which confirms that the Council has “*interpreted*” the recommendations of para. 17 of the Interim Note and MM5 as a “*focused and not district-wide site allocation exercise*” [Supp/237]. This is reflected in the Second SA Addendum [Supp/150 to 161], which simply appraises sites adjacent to Midsomer Norton (Appendix 1) and the preferred options in Primary Villages within the north east of the District (Appendix 2).²⁰ As the Inspector explains at IR 41, “*The Council’s 505 Dwellings Background Paper also explains that realistic alternative sites were considered around Midsomer*

[Supp / 347
and 364]

[Supp / 357]
[Supp / 270 to
281]

¹⁹ See para. 17(a) at [Core/423].

²⁰ Although a further Additional SA was carried out to appraise alternative sites within the Mendip Villages of Beckington, Norton St Philip and Rode which were not proposed for allocation, this still did not consider or appraise the primary change brought about by MM5, which was whether additional allocations should be focused in the north-east of the District.

[Supp / 421]

Norton and Radstock, as well as assessing the suitability of villages within the north-east of the District” (emphasis added).

63. The approach that was adopted is also confirmed in the SA Adoption Statement [Supp/113 to 120]. This explains that [Supp/120]:

[Supp / 233 to 240]

[Supp / 240]

“During the examination of the plan, the Council were advised by the Inspector to seek allocations for a further 505 dwellings in the north/north east of the District. **Since the spatial strategy had already been established in LPP1, there was no further requirement for the LPP2 SA to establish alternative distribution scenarios in the north east of the district.** Instead, the Council sought to meet the need in accordance with the adopted spatial strategy as directed by the Inspector.

In accordance with the locational directions set out within LPP2 Core Policy CP2 and the supporting text, **land to accommodate 505 dwellings was sought in the north east of the district** including sites adjacent to Midsomer Norton and Radstock. The SA undertaken was consequently a site assessment process...” (emphasis added)

Again, this misses the point. The requirement was not to appraise alternative distribution scenarios *within* the north-east of the District, but to appraise reasonable alternatives to allocating an additional 505 dwellings in the north-east of the District as opposed to anywhere else.

64. In essence, the Inspector’s proposed MM5 represented a preferred option which he had asked the Council to consider for meeting the additional requirement of 505 dwellings. However, the fact that this was suggested by the Inspector did not absolve the Council of the requirement to consider and analyse reasonable alternatives to it through an addendum to the SA. On the contrary, there was a requirement to do so to ensure that the likely significant effects of the proposed modification and all reasonable alternatives to it had been properly considered.

65. The position is analogous with the situation in *St Albans*, where policies proposing additional development in three towns around London were quashed because there had not been any consideration of alternatives to those policies. As in that case, the requirement to allocate 505 dwellings in the north-east of the District was treated as a *fait accompli* and not subject to any appraisal in the SA.

66. The Defendant's pre-action response suggests that the Claimant has misunderstood the iterative nature of SA in the plan-making process. However, this analysis appears to be based upon (and therefore reinforces) the misinterpretation of LPP1 identified under Ground 1.²¹ Correctly interpreted, LPP1 did not fix the strategic location for the allocation of the additional 505 dwellings and this was not subject to SA during the preparation of the plan. Therefore, there was a requirement to appraise all reasonable alternatives to the proposed modification to the plan which would result in the allocation of 505 additional dwellings in the north-east of the District. Insofar as para. 17(g) of the Defendant's pre-action response is concerned, the adequacy of the SA is ultimately a matter for the Defendant and not the Inspector. However, it is hardly surprising that the Inspector did not raise any concerns because he (wrongly) considered that the strategic location of the additional 505 dwellings was fixed by LPP1.

67. Paragraph 18 of the Defendant's pre-action response is also misconceived. The Claimant relies upon the principles established in the authorities that have been cited, and the particular name of the DPD under consideration in each case is neither here nor there. There is (rightly) no dispute that there was a requirement to carry out an SA of the LPP2, and there was therefore a requirement to consider and appraise reasonable alternatives to the approach taken in that plan, which included (as part of the main modifications) a strategic decision to allocate an additional 505 dwellings within the north-east of the District.

68. The Defendant's statement [Core/423] that the Claimant did not challenge the approach taken or comment on the requirement to appraise alternative spatial distributions for the additional 505 dwellings is also factually incorrect. The Claimant made numerous representations on the need to appraise other sites in the wider District, including in its written representations on the MMs and its hearing statements which were expressly dealing with the adequacy of the SA [Supp/17 and 96]. The adequacy of the SA and the failure to consider appropriate alternatives to the decision to hypothecate the 505 dwellings to the north-east of the District were also raised by BANES in its submissions to the examination [Supp/32 to 33 and 109 to 110].

[Supp / 137
and 216]

[Supp / 152 to
153 and 229
to 230]

²¹ See, in particular, para. 17(e) of the Defendant's pre-action response at [Core/423].

[Supp / 421]

69. The failure to consider reasonable alternatives necessarily undermines the Inspector's analysis of the additional allocations, which relies upon the conclusions of the Second SA Addendum to conclude that the allocation of an additional 505 dwellings in the north east of the District represents a sustainable approach.

- a. At IR 68 the Inspector states that "*The sustainability doubts expressed in this paragraph [para. 3.34 of the submission plan], for example, run counter to the findings of the SA Second Addendum*".
- b. At IR 72 the Inspector finds that "*the 505 Dwellings Background Paper and the supporting SA...present robust and convincing justification*" for the view that the 505 dwellings should be allocated in the north/north-east part of the district.
- c. Similar conclusions are also reached at IR 83, 84 and 85, all of which consider that the SA Second Addendum demonstrate that it is sustainable and appropriate for an additional 505 dwellings to be allocated within the north-east part of the District.

70. However, for the reasons set out above, the Second SA Addendum was carried in a vacuum that only considered sites in the north-east. Therefore, its findings cannot possibly inform or support the sustainability of this strategic approach. The only way to give proper consideration to whether the new approach to the 505 Dwellings represented a sustainable approach was to consider it against reasonable alternatives to allocating this additional development in the north-east of the District.

71. The failure to even consider whether there were any reasonable alternatives to MM5 resulted in a clear breach of the requirements of the SEA Regulations which renders the additional allocations made in reliance upon it unlawful. For the avoidance of any doubt, the Claimant does consider that the adoption of LPP2 was in breach of the SEA Regulations.²² However, the Claimant only seeks a partial quashing of the plan, as is set out in the section on proposed remedies below.

²² Cf. para. 16 of the Defendant's pre-action response at [Core/422].

Ground 3: Failure to have regard to CP2.2(c) and the requirement for proportionate development in rural settlements and/or provide adequate reasons to explain how this had been taken into account

72. As is set out above, the approach which should be taken to additional site allocations proposed through LPP2 is principally set out in CP2.2(c). This states that [Core/335]: [Core / 287]

“Delivery of housing will be secured from:
[...]

c. Other allocations of land for housing and, where appropriate, mixed use development, outside of Development Limits **through the Site Allocations process in line with:**

- i) the principle of proportionate growth in rural settlements guided by the requirements identified within the supporting text above
- ii) informed views of the local community
- iii) the contribution of development since 2006 towards identified requirements in each place, development with planning consent and capacity within existing Development Limits.” (emphasis added)

73. Paragraph 4.22 of the supporting text explains that “*The need to plan for proportionate levels of growth in Primary and Secondary Villages will...remain an essential consideration*” [Core/327]. Paragraphs 4.28 – 4.37 then set out the approach that will be taken to the provision of housing for rural communities, which include primary and secondary villages [Core/330 to 332]. Paragraph 4.31 explains that two broad principles should be applied in distributing new rural development. The second of these principles is that “*new development in each place should be appropriate to their existing scale and have regard to environmental constraints*”. In response to this principle, the Council identified village housing requirements based on a proportionate growth equating to 15% of the existing housing stock (see paras 4.33 – 34), which are set out in the tables 8 and 9 of LPP1 [Core/331]. The Village Requirement for Norton St Philip is 45, against which there had already been existing completions / consents which totalled 73 dwellings. [Core / 279]
[Core / 282 to 284]
[Core / 283]

74. Paragraph 4.36 then sets out a number of principles which will be followed [Core/331 to 332]. In summary, these include: (a) that in villages where the residual level of development (as set out in tables 8 and 9) is less than 15 homes the Council will assume that housing supply will be delivered from small site development within defined settlement limits; and (b) in villages where the residual level of development is in [Core / 283 to 284]

excess of 15 homes, the Council will allocate sites and/or make adjustments to existing development limits to deliver the residual housing requirement through LPP2. In other words, the requirements referred to in CP2.2(c) indicate that allocations will only be made at villages where the residual level of development is in excess of 15 homes.

75. In accordance with the requirements of CP2, the pre-submission plan explained that to achieve a distribution of growth consistent with the spatial strategy (per Housing Objective (d)), the plan allocations “*focus on those settlements where land supply falls short of the minimum requirements*” [Core/262].²³ Further clarification regarding the approach to Primary and Secondary Villages was provided at paragraphs 3.37 and 3.38 of the pre-submission plan, which stated that [Core/262]: [Supp / 17]

“3.37 An important part of the spatial strategy is that there should be a proportionate approach to growth in the primary and secondary villages. However, a number of villages have seen significant additional development built or granted permission. This reflects the impact of a period where the Council did not have a five year housing supply.

3.38 The approach of this Plan is that further growth in these villages through planned site allocations does not reflect the adopted spatial strategy. The proposed site allocations reflect this principle by not identifying allocations in villages which have already fulfilled the requirements set out in Local Plan.” (emphasis added)

76. Therefore, in accordance with CP2 and the spatial strategy, the pre-submission version of LPP2 did not propose any allocations in Norton St Philip or Beckington [Core/272 and 285]. This was explained in the Council’s response (IQ7) to the Inspector’s initial query, which noted that “*settlements in the north east of [the] district have already significantly exceeded the minimum requirements*” [Supp/7].²⁴ This was followed by a table which shows that completions and commitments have exceeded the requirement by 251% in Norton St Philip and 196% in Beckington. [Supp / 27 and 40] [Supp / 51]

77. Despite the representations from the Claimant on this issue,²⁵ the Inspector completely failed to have regard to the requirements of CP2 when considering whether the additional housing allocations in the north-east of the District, and Norton St Philip and

²³ See para. 3.22.

²⁴ See IQ7, p. 3.

²⁵ See especially [Supp/22 to 25 and 95 to 96].

Beckington in particular, were appropriate and consistent with the spatial strategy. Indeed, nowhere in the IR does he engage with this essential requirement of CP2 when considering the acceptability of the proposed allocations.

78. The failure to take these requirements into account is further illustrated by the fact that inconsistencies that have arisen following the MMs to the plan. For example, paragraph 3.28 states that “*The proposed site allocations reflect this principle [of proportionate growth] **by not identifying allocations in villages which have already fulfilled the requirements set out in Local Plan** [sic]” (emphasis added) [Core/59]. However, the plan then proceeds to make allocations at Norton St Philip and Beckington in direct contravention of this statement.²⁶ [Core / 130]*
79. Similar inconsistencies can also be found in the SA Adoption Statement, which wrongly advised members that “*In accordance with the strategic direction set out in LPP1, no further development was to be directed to villages which had already met their requirement*” [Supp/118]. [Supp / 238]
80. In the further alternative that the Inspector did take the requirements of CP2.2(c) into account, he failed to provide any reasons explaining how the additional allocations at Norton St Philip and Beckington were consistent with these requirements or why they should be made notwithstanding their conflict with CP2, which gives rise to substantial doubt as to whether he misunderstood the policy or failed to have regard to it (*South Bucks DC v Porter* [2004] UKHL 33 at [36]). This was particularly important because regulation (8)(4) of the Town and Country Planning (Local Planning) (England) Regulations 2012 requires policies contained in a local plan to be consistent with the adopted development plan (in this case LPP1), and regulation 8(5) provides that where a local plan contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy.
81. Consistency with CP2 and the requirement for proportionate growth in rural settlements was plainly a principal important controversial issue. Indeed, it was one of the key issues arising from the Stage 2 examination hearings [Supp/15], which were held solely to consider the proposal to allocate an additional 505 dwellings in the north east of the [Supp / 59]

²⁶ See Table 2 [Core/65], Policy NSP1 [Core/88 to 89], and Policy BK1 [Core/81 to 82].

District. Moreover, the Claimant has suffered prejudice as a result of the Inspector's failure to provide any reasoning on this issue because it creates considerable uncertainty as to how the requirements of CP2 will be dealt with in the future.

82. The Defendant's pre-action response relies upon the reasoning given at IR 94, with particular emphasis being placed on the reference to the proposed allocations being "*proportionate and consistent with LPP1*". However, this paragraph falls under the sub-heading "*Distribution of new homes outside the north-east part of the District*" (emphasis added), and is therefore not dealing with the allocations in the north-east. Moreover, Table 4a that is referred to in MM149 [Core/230] shows that no [Supp / 128] consideration was given to the development levels within individual villages and that the additional 505 dwellings were treated as a "*minimum requirement*" from CP2, again reinforcing the misinterpretation of LPP1.

Ground 4: Decision to allocate NSP1 and BK1 through main modifications to LPP2 was irrational

83. When LPP1 is properly construed and the requirements of CP2.2 are taken into account and engaged with, it was *Wednesbury* irrational to allocate NSP1 and BK1. That is especially so having regard to the following:
- a. LPP1 did not create any requirement to allocate an additional 505 dwellings within the north east of the District, and certainly not in the rural areas outside the areas on the edge of Radstock and Midsomer Norton.
 - b. CP2 required allocations to be made in line with the principle of proportionate growth in rural settlements, and existing completions and commitments in Norton St Philip and Beckington already significantly exceeded the requirement for these Villages.
 - c. In the submission version of LPP2, the Council (rightly) considered that further growth in Norton St Philip and Beckington would not accord with the Spatial Strategy, which continues to be reflected in the wording of supporting text to the adopted LPP2.
 - d. No consideration was given, through the SA or otherwise, to whether alternative sites outside of the north east part of the District could accommodate the additional

505 dwellings in accordance with the Spatial Strategy in CP1 and the requirements of CP2.

- e. The allocation at Norton St Philip would conflict with a draft Neighbourhood Plan that proposed to make additional allocations in the parish, but had been held up through delays caused by a legal challenge brought by the promoter of allocation NSP1, and therefore causes further delays to its adoption.

84. Accordingly, the decision to allocate NSP1 and BK1 through main modifications to LPP2 does not add up and robs the decision of logic (*R (Balchin) v Parliamentary Commissioner for Administration* [1995] EWHC 152 (Admin) at [27]).

85. The ground of challenge is not parasitic upon the other grounds of challenge, as the Defendant's pre-action response suggests,²⁷ and is a freestanding ground of challenge which is run in the alternative that the other grounds of challenge are not made out.

Appropriate Remedy

86. The Claimant ultimately seeks the partial quashing of LPP2 in accordance with the powers contained within ss. 113(7)(a) and (7C) of the 2004 Act.

87. The precise extent of any partial quashing order will turn upon the judgment of the Court and which grounds of challenge are upheld. Whilst the Claimant's principal concern relates to Policy NSP1, it is recognised that if Grounds 1 or 2 are upheld, it is likely to be necessary to quash all allocations relating to the additional 505 dwellings and any associated explanatory text. If Ground 3 is upheld, it would only be necessary to quash Policies NSP1 and BK1. The appropriate remedy in the event that Ground 4 is upheld may only require Policies NSP1 and BK1 to be quashed, but it may be broader than this depending on the judgment of the Court.

88. The Claimant also seeks an interim order suspending the operation of Policy NSP1, per the draft order at [Core/42 to 43], in accordance with the Court's powers under ss. 113(5) and (5A).

²⁷ See para. 23 at [Core/425].

89. The Claimant does not agree with the Defendant's contention in its pre-action response that it is not possible to consent to judgment on a narrow basis without the quashing order infecting the plan as a whole,²⁸ not least because the grounds of challenge are specifically concerned with amendments relating to the additional 505 dwellings that were made as main modifications to the submitted plan in the first place. The Claimant's suggested approach is entirely consistent with the usual approach that is adopted where a legal error relates to particular policies in the plan (see, for example, *Ashdown Forest Economic Development LPP v Wealden DC* [2015] EWCA Civ 681 at [60]). Nevertheless, in the alternative that the Court considers that it is not possible to quash part of LPP2, then the Claimant asks that it remit the relevant sections of the plan back to the Inspector in accordance with s. 113(7)(b) and direct that appropriate modifications are made in light of its judgment.

Aarhus Claim

90. The proposed claim is an Aarhus Convention Claim, per CPR 45.41. It is a review under statute which challenges the act of a body exercising public functions on the basis that it contravenes national law relating to the environment, including the SEA Regulations, and Parish Councils can be regarded as members of the public for the purposes of the Convention (*Crondall PC v SSHCLG* [2019] EWHC 1211 (Admin)).

91. The Defendant's pre-action response does not appear to challenge the basic principle that this is an Aarhus Convention Claim,²⁹ but notes that a schedule of financial resources must be filed in accordance with CPR 45.42 in order for the costs limits in CPR 45.43 to apply.

92. A schedule of financial resources is provided at [Core/432 to 437] and the Claimant submits that this demonstrates that it is appropriate for the usual costs limits to apply in the present case.

²⁸ See para. 25 at [Core/423].

²⁹ See para. 28 at [Core/426].

Conclusion

93. For the reasons set out above, the Claimant requests:

- a. Permission to proceed with all 4 grounds of challenge;
- b. An interim order suspending the operation of NSP1 whilst this claim is determined;
- c. A final order partially quashing LPP2 in accordance with the terms of the judgment of the Court;
- d. An order that the Defendant pay the Claimant's costs; and
- e. Any other order that the Court considers appropriate.

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28 January 2022

Relevant statutory extracts

Planning and Compulsory Purchase Act, 2004 c.5

113 Validity of strategies, plans and documents

(1) This section applies to—

- ...
- (c) a development plan document;
- ...
- (e) a revision of a document mentioned in paragraph (b), (ba), (c) or (d);
- ...

and anything falling within paragraphs (a) to (g) is referred to in this section as a relevant document.

(2) A relevant document must not be questioned in any legal proceedings except in so far as is provided by the following provisions of this section.

(3) A person aggrieved by a relevant document may make an application to the High Court on the ground that—

- (a) the document is not within the appropriate power;
- (b) a procedural requirement has not been complied with.

(3A) An application may not be made under subsection (3) without the leave of the High Court.

(3B) An application for leave for the purposes of subsection (3A) must be made before the end of the period of six weeks beginning with the day after the relevant date.

...

(5) The High Court may make an interim order suspending the operation of the relevant document—

- (a) wholly or in part;
- (b) generally or as it affects the property of the applicant.

(5A) An interim order has effect—

- (a) if made on an application for leave, until the final determination of—
 - (i) the question of whether leave should be granted, or
 - (ii) where leave is granted, the proceedings on any application under this made with such leave;
- (b) in any other case, until the proceedings are finally determined.

(6) Subsection (7) applies if the High Court is satisfied—

- (a) that a relevant document is to any extent outside the appropriate power;
- (b) that the interests of the applicant have been substantially prejudiced by a failure to comply with a procedural requirement.

(7) The High Court may—

- (a) quash the relevant document;
- (b) remit the relevant document to a person or body with a function relating to its preparation, publication, adoption or approval.

(7A) If the High Court remits the relevant document under subsection (7)(b) it may give directions as to the action to be taken in relation to the document.

(7B) Directions under subsection (7A) may in particular—

- (a) require the relevant document to be treated (generally or for specified purposes) as not having been approved or adopted;
- (b) require specified steps in the process that has resulted in the approval or adoption of the relevant document to be treated (generally or for specified purposes) as having been taken or as not having been taken;
- (c) require action to be taken by a person or body with a function relating to the preparation, publication, adoption or approval of the document (whether or not the person or body to which the document is remitted);
- (d) require action to be taken by one person or body to depend on what action has been taken by another person or body.

(7C) The High Court's powers under subsections (7) and (7A) are exercisable in relation to the relevant document—

- (a) wholly or in part;
- (b) generally or as it affects the property of the applicant.

...

(9) The appropriate power is—

...

- (c) Part 2 of this Act in the case of a development plan document or any revision of it;

...

(10) A procedural requirement is a requirement under the appropriate power or contained in regulations or an order made under that power which relates to the adoption, publication or approval of a relevant document.

(11) References to the relevant date must be construed as follows—

...

- (c) for the purposes of a development plan document (or a revision of it), the date when it is adopted by the local planning authority or approved by the Secretary of State (as the case may be);

...

List of essential reading (2.5 hours)

1. Claimant's statement of facts and grounds and references therein [Core/10 to 41].	[Core / 4 to 35]
2. Acknowledgements of service and summary grounds of defence	[Core / 115 to 116 and 174 to 189]
3. Notice of adoption and adoption report [Core/44 to 45 and 103 to 118].	[Core / 190 to 233]
4. Inspector's examination report, paras. 1 – 13, 25 – 29, 38 – 43, 53 – 95 and 115 – 142 [Core/119 to 162].	[Core / 234, 236 and 237]
5. Paragraphs 1 – 4 and 16 20 of the Inspector's Interim Note ED20 [Core/239, 241 and 242].	[Supp / 347 to 392]
6. 505 Dwellings – Background Paper [Supp/227 to 272].	[Core / 273 to 288]
7. LPP1, pp. 26 – 40 [Core/321 to 336].	[Core / 121, 127 to 138 and 158 to 160]
8. LPP2, p. 1, pp. 7 – 18 and pp. 144 – 146 [Core/50, 56 to 67 and 87 to 89].	

**IN THE HIGH COURT OF JUSTICE
CARDIFF DISTRICT REGISTRY
ADMINISTRATIVE COURT, PLANNING COURT**

BETWEEN:

NORTON ST PHILIP PARISH COUNCIL

Claimant

and

MENDIP DISTRICT COUNCIL

Defendant

and

**(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND
COMMUNITIES
(2) LOCHAILORT INVESTMENTS LIMITED**

Interested Parties

DEFENDANT'S GROUNDS OF DEFENCE

References to

- *[Core / x] are references to page (x) numbers in the Core Claim Bundle*
- *[Supp / x] are references to page (x) numbers in the Supplementary Bundle*

Reading time: 3.5 hours

Essential Reading

- 1) The Claimant's Statement of Facts and Grounds dated 28 January 2022;
- 2) These Grounds of Defence dated 16 February 2022;
- 3) Chronology and timeline of events (as attached);
- 4) The witness statement by Mr Andre Sestini dated 15 February 2022;
- 5) The Report on the Examination of the Mendip District Local Plan Part 2 (Core / 119 – [Core / 190 to 162) paras 4-11, 25-29, 38-43, 53-95. 233]

Introduction

1. This is a response to the claim for statutory review pursuant to Section 113 of the Planning and Compulsory Purchase Act 2004 ("**the 2004 Act**"). The challenge is to the recently adopted Mendip District Local Plan 2006-2029 Part II: Sites and Policies ("**LPP2**") which was approved by the Full Council on 20 December 2021.
2. LPP2 is a sister complimentary document to Local Plan Part 1 adopted in December 2014 ("**LPP1**") which seeks to give expression to how the housing requirements contained in LPP1, by also identifying sufficient sites to maintain the five year housing land supply.
3. These Grounds of Defence should be read alongside the chronology and timeline of events, as well as the witness statement of Mr Andre Sestini dated 15 February 2022.
4. To put in sharp context, this challenge to LPP2 attacks the understanding of the strategic aims and objectives of LPP1. As adopted, LPP2 identifies **30 additional development sites**, it updates **3 existing** development allocation and clarifies Future Growth Areas identified in Local Plan Part 1. It also includes policies on existing employment land and rural housing.
5. The Claimant seeks to challenge the allocation of **2 development sites**.
6. The Claim is highly specific and focused around the approach taken by the LPP2 Inspector in relation to the interpretation of LPP1, and specifically as to how 505 additional dwellings are to be distributed through the site allocations plan, LPP2, which is the substance of the challenge before the Court.
7. In all other senses, the Claim does not challenge the soundness of the plan, it does not seek to suggest that there are other deficiencies to the plan. It will become plainly obvious that this is nothing more than a grievance on the part of a Claimant aggrieved by more housing being allocated in its Parish.

8. The Second Interested Party is represented and these Grounds of Defence does not seek to duplicate the points made by them.

Brief Background

9. Local Plan Part 1 was adopted in on **15 December 2014**.¹ In this document, the role of Radstock / Midsomer Norton are discussed, and where the additional 500 dwellings are to go in the District through LPP2. At paragraph 101 of his Examination Report, the LPP1 Inspector adds,

*“101. The point is made earlier in the report (paragraphs 23 and 24) that the decision to extend the end date of the plan means that the Part II Local Plan Allocations document will need to find sites for an additional 500 or so houses. Various proposals as to how these houses could be distributed have been put forward by representors. **However there is no substantial evidence at this time to indicate that these houses should be directed towards one or another location.** The approach taken in the Plan, which is to **indicate that these houses will be distributed in accordance with the Plan’s spatial strategy, is, therefore, sound.**”* [emphasis added]

10. Core Policy 1 (“**CP1**”) of LPP1 seeks to deliver growth for Mendip district in the most sustainable pattern by directing development towards the five main towns. Beyond this, for the rural parts of the district, they are broken down into three categories; primary and secondary villages, and then the more minor villages and hamlets.²
11. The two allocations in this challenge, are in Beckington and Norton St Philip which are classified as primary villages. They make up two amongst the **16 classified as such** on the basis that they offer key community facilities, including the best available public transport services, and some employment opportunities.
12. The supporting text to LPP1 assists in explaining the approach to the ‘top down’ distribution of the 9,635 additional dwellings. First to the main towns and then to the

¹ Core / 354-394, see paragraphs 21-25, and 101

² Core / 321-326

[Core / 306 to 346]

[Core / 273 to 278]

primary and secondary villages.³ Table 9 in LPP1 sets out the requirement for each village over the 2006-29 period, with the maximum requirement clearly set out. For Beckington, there is a shortfall 43, with only 12 dwellings being completed against a requirement of 55. For Norton St Philip, the requirement has been exceeded.

13. The same supporting text to CP1 is also important to the understanding and interpretation of the same. The following is worth reciting in full.

*“4.21 The Review of Housing Requirements (2013) and the rolling forward of the plan period to 2029 will result in an additional requirement of 505 dwellings in the District. **This will be addressed in Local Plan Part II: Site Allocations** which will include a review of the Future Growth Areas identified in this plan. The Site Allocations document will also be able to take account of issues in emerging Neighbourhood Plans, updated housing delivery, **revised housing market areas and housing needs identified** through cross boundary working. Allocations from this roll-forward are **likely to focus on sustainable locations in accordance with the Plan’s overall spatial strategy as set out in Core Policy 1 and may include land in the north/north-east of the District primarily adjacent to the towns of Radstock and Midsomer Norton in accordance with paragraph 4.7 above.**”*
(emphasis added)

14. Core Policy 2 (“CP2”) of LPP1 assists us in understanding the scale of any housing to be provided within the various villages, together with a table for guidance. Table 9 sets out how each settlement will make the required contribution to meet requirement through further allocations.⁴ Crucially, based on the principle of ‘proportionate growth’. Over the plan period of 2006-2029, CP2 provides for a minimum of **9,635** additional dwellings in the district, some **420 dwellings** per annum (dpa).
15. Core Policy 4 (“CP4”) of LPP1 provides that housing within rural settlements should be at a scale commensurate with the existing housing stock in line with CP1 and CP2.⁵

³ Core / 327-330, see paragraphs 4.18-4.34

⁴ Core / 331, see table 9

⁵ Core / 344

[Core / 279 to 282]

[Core / 283]

[Core / 296]

16. In **2015**, work began on LPP2 which led to an issues and options consultation. Further consultations, local exhibitions and written comments followed and fed into the pre-submission process. Further consultations were undertaken with Town and Parish Councils in 2016 and 2017. A pre-submission Sustainability Appraisal report followed in December 2017, with a draft LPP2 being published in January 2018.⁶
17. Between **December 2018 – August 2019**, after the Council submitted the LPP2 with approved changes for examination, a six week consultation on the proposed changes ahead of the hearings took place. Following which Inspector Fox published the Matters and Issues document. The first set of examination hearings were then conducted.
18. Following the hearings, between **July – September 2019**, the Inspector specifically asked for representations on **the additional 505 dwellings** and where they are to go. There were ‘without prejudice’ exchanges made by the Council with a view to assisting the Inspector understand the Council’s position. This then culminated in the Inspector’s Interim Note dated **10 September 2019**.
19. The Inspector examining LPP2 expressed concerns around the Council’s approach of discounting the sites around Midsomer Norton when considering where the 505 dwellings ought to go. The Council was asked for an explanation. The Inspector was keen to understand in the hearings the meaning of paragraphs **LPP1 4.7 and 4.21**, the 505 dwellings, and the significance of his colleague in LPP1 inserting a main modification in order to ensure the soundness of LPP1 on adoption.
20. Throughout this period the Council’s position was not to allocate additional development in the village of NSP, a position the Claimant supported. The Inspector had heard from the Claimant and in particular in relation to what was their central interest at that time, the allocation of local green spaces. The same issue involved a dispute with the second Interested Party, a matter tested all the way up to the Court of Appeal.⁷

⁶ Core 250 onwards; see also witness statement from Mr Andre Sestini on the detail of the background.

⁷ R (oao) Lochailort Investments Ltd v Mendip DC & Norton St Philip Parish Council [2020] EWCA Civ 1259

21. The LPP2 Inspector, keen to satisfy himself on the direction of travel, made a number of requests around the issue of the 505 dwellings and where they ought to go. Additional evidence and a statement of common ground were submitted to address the requirement for a Sustainability Appraisal of Sites around Midsomer Norton.
22. The Inspector then reflected on all of the above in his Interim Note dated 10.9.2019.⁸

Inspector's Interim Note dated 10 September 2019

23. The Interim Note was issued by the LPP2 examining Inspector following two weeks of examination hearing sessions, with several parties contributing. In it he makes clear that he has not reached any final conclusions and that the Main Modifications would still be subject to consultation (2). The Inspector says the following in relation to the Council's position then (in agreement with the Claimant).⁹

"16. Land to the North-East of Mendip District: The overall distribution of development proposed in the Plan broadly conforms with the relevant policies in LPP1, with one exception. The table in policy CP2 of LPP1 makes specific reference to an additional figure of 505 dwellings; furthermore, paragraph 4.21 in LPP1 refers to the requirements to address the housing needs of the north-eastern part of the District, including land adjacent to the towns of Radstock and Midsomer Norton....

*"17. From my reading of the LPP1 Inspector's Report and LPP1 itself, and from the discussion at the Hearing sessions, it seems to me that there is a **strategic expectation that allocations for development in this part of the Plan area should be considered**. I consider that in these circumstances it is appropriate for this additional element of 505 dwellings to be apportioned to sustainable settlements in the north-east part of the District, both on sites adjacent to the two aforementioned towns in BANES, and possibly also within other settlements which lie within the District..." (emphasis added)*

24. The Inspector makes clear he is not prescribing *where* these additional 505 dwellings should be allocated (18). He further explains that there would be a requirement for a

⁸ Core / 239-249

⁹ See paragraphs 16-24 of the Interim Note

Sustainability Appraisal (“SA”) in relation to these additional sites put forward, which would require a consultation (19). Crucially, the Inspector makes clear that no arbitrary caps are placed on development, contrary to the objectives of the Framework, including if an area has reached its housing target as set out in LPP1(22). Here, he was clearly making reference to NSP reaching its housing target (as set out above).

25. It is against this backdrop that the Inspector then offers the Main Modifications, and particularly MM5. Here, the Inspector does two things; (1) he explains his reasoning by reference to the supporting text of LPP1; and (2) he acknowledges that all the sites now considered for possible allocations (beyond those already consulted upon) ought to be subject to a fresh Sustainability Appraisal.¹⁰

The 505 Dwellings Background Paper¹¹

26. In response to the Inspector’s Interim Note, the Council undertook a focused site allocations exercise informed by the note and the Main Modifications. This culminated in the 505 Dwellings Background Paper. The document should be read as a whole, but the following assists in understanding how the Council interpreted MM5.

“...the Council have:

- *Interpreted this as focused and not district wide site allocation exercise*
- *Assessed the sites adjacent Midsomer Norton / Radstock which **were not addressed in the plan process to date***
- *Adopted a broad ‘area of search’ and considerations in terms of settlements in the north/northeast part of the district.*
- *The assessment of settlements has sought to take account of their overall suitability to take additional growth and sustainability of individual sites promoted through the LPP2.” (emphasis added)*

27. Guided by the Inspector’s Interim Note, in January 2020, the Council undertook an assessment and sustainability appraisal of sites in the vicinity of Midsomer Norton

¹⁰ Core / 248, ‘MM5’

¹¹ Supp / 227

and Radstock.¹² Table 1 provides details of the new housing sites added through the Main Modification process and being assessed as part of the second SA process. Following representations received, on 3 April 2020, the Inspector advised that there would be a need for additional examination hearings solely to cover the 505 dwellings and the proposed site allocations. In the end, the Inspector allocated six hearing days to cover the 505 dwellings issue, together with understanding the role of LPP1 and the northeast of the district accommodating this.¹³

28. In December 2020, the Inspector undertook accompanied site visits, including to the very sites being challenged as part of this claim. Further main modifications unrelated to this claim were consulted upon in Feb/March 2021. The final report was received by the Council on 1 September 2021, and subsequently reported to Mendip Cabinet.¹⁴

Local Plan Part 2¹⁵

29. Local Plan Part 2 (“**LPP2**”) was adopted in December 2021 following almost three years of examination, evidence and hearings. The Claimant has engaged consistently with the process since the beginning.
30. LPP2 is a sister document to LPP1; it does not seek to review the strategic policies as set out in LPP1. It has identified additional housing sites to meet its minimum requirements, and to support housing land supply with a view to enabling an uplift in housing growing. In this context, it is worth noting that as at December 2019, LPP1 became *five years old* and was in urgent need of review (as required by NPPF 33) and crucially, the adoption of LPP2 became even more urgent.
31. As to the background process, discussions, changes and the Inspector’s considerations are captured well in his final report (4-11). The Inspector faithfully and accurately summarises his understanding of the strategic aims and objectives contained in LPP1 (26-31). The Inspector’s description in relation to the change in position as to the

¹² Supp / 150

¹³ See more in the statement from Andre Sestini

¹⁴ This was done on 4 October 2021, and subsequently adopted by full Council on 20 December 2021

¹⁵ Core 119-162, paragraphs paras 4-11, 25-29, 38-43, 53-95

[Supp / 270]

[Core / 190 to
233]

housing provision is reflected in Table 4a of LPP2.¹⁶ It provides for an uplift from the 9,635 (LPP1) to 12,755 dwellings now needed over the plan period of 2006-2029. Taking **420 dpa** up to **555 dpa**.

32. The figure contained within CP2 had been increased by some 32% which would also assist with the updated position on 5 Year Housing Land Supply for the future. Within this you have the uplift of 43% from the CP2 position for villages & rural areas, excluding the two sites under challenge here. For them, there is the allocation of NSP1 (27) and BK1 (28) totalling 55 dwellings, an increase of 1%.¹⁷
33. The heart of the reasoning leading to the adopted plan is contained in the Inspector's Report at paragraphs 56-95, the result of many discussions and hearings, evidence and deliberations over many years. How he has approached this matter in his report is a direct answer to the first ground of challenge, from which all others flow and rely.

Legal Framework

34. Legal challenges to development plan documents are governed under s113 of the Planning and Compulsory Purchase Act 2004 and are termed "statutory review" (i.e. an analogous process to "judicial review").
35. It is necessary to consider the following key principles/issues governing challenges to development plan documents, derived from the extensive case law in this area:

- (1) Grounds for Challenge
- (2) The Duty to Give Reasons
- (3) Soundness (including Policy Interpretation)
- (4) Sustainability Appraisal

¹⁶ Core / 67

¹⁷ Core /65-67

(1) Grounds for Challenge

36. Following adoption, a challenge by way of statutory review can only be brought on the basis that the Local Plan is (a) “not within the appropriate power” or (b) “a procedural requirement has not been complied with”: Sections 113(3)(a)-(b).
37. A challenge on the basis of s113 is effectively akin to conventional judicial review. The Section 113(3)(a) “appropriate power” limb encompasses a failure to take into account a material consideration, including a failure correctly to interpret national planning policy. There have been many cases setting out the relevant principles. These are collected in *Keep Bourne End Green v Buckinghamshire Council (formerly Wycombe BC)* [2020] EWHC 1984 (Admin), which are referred to further a number of times below.
38. A procedural challenge under Section 113(3)(b) would need to demonstrate that the claimant’s interests have been “substantially prejudiced” by that failure of procedure: s 113(6)(b). Challenges under this ground are extremely rare, but applying the same principles observed above, such challenges can only be brought post-adoption: i.e. when the whole procedure has been completed. As matters stand, the Claimant has not specified precisely which elements of s113 the claim relies on.

(2) The Duty to Give Reasons

39. An Inspector is required to give reasons for their recommendation (s. 20(7), (7A) and (7C) PCPA 2004). This duty is completed only when the final Report has been produced. Every statutory review challenge will require scrutiny of the actual reasons given. However, s113 challenges have been rendered even more complex in recent years by a trend in the courts’ decisions away from imposing too high a standard for reasons. In *Keep Bourne End Green* Holgate J observed at [83]:

83. *The Inspector's statutory obligation was to give reasons for her recommendations, whether under s.20(7), (7A) or (7C) . The legal standard for the giving of reasons was set out in South Bucks District Council v Porter (No. 2) [2004] 1 WLR 1953 . In particular, the claimant must demonstrate that there is a substantial doubt as to whether the*

Inspector's reasoning was vitiated by a public law error ([36]). In the CPRE case the Court of Appeal stated that the reasons given by an Inspector on the examination of a local plan may be more succinctly expressed than in a decision letter on a planning appeal. It is unlikely that he or she will need to set out the evidence of every participant. It will be sufficient if he conveys to a "knowledgeable audience" how he has decided the main issues before him. He may only need to set out the main parts of his assessment and the essential planning judgments he has made ([75] to [76]).

(3) Soundness

40. The Court of Appeal has applied a strong health warning against legal challenges to findings on soundness, noting that such challenges “*seldom succeed*”, given that soundness is quintessentially a matter of planning judgment: *Oxted Residential v Tandridge DC* [2016] EWCA Civ 414 at [27].
41. The courts are astute to restrict the scope for claimants to pursue planning merits points before the court. In *Keep Bourne End Green*, the Court noted in particular at [56]: “*it is not an opportunity for parties to re-run the planning merits on an issue.*”
42. This applies with particular force to challenges on the basis of errors in interpretation. In *Keep Bourne End Green*, Holgate J observed:

*76. The interpretation of policy is an objective question of law for determination by the court, in so far as the meaning of a particular policy or phrase can properly be said to be justiciable. However, the application of policy is a matter for the judgment of the decision-maker and may only be reviewed on public law grounds, primarily that of irrationality. A contention that the decision-maker failed to take into account a material consideration cannot succeed unless the claimant establishes not only that that consideration was legally relevant but also that he was obliged as a matter of law (or policy) to take it into account, or that it was irrational not to have done so, because it was "obviously material" (*Oxton Farm v Harrogate Borough Council* [2020] EWCA Civ 805 at [8]).*

...

79. *There have been many attempts in the last few years to entice the courts into making pronouncements on the methods used to assess OAHN. Repeatedly the response has been that this is a matter of planning judgment for the decision-maker and not for the courts.*

43. The court emphasised the following principles from Lindblom LJ in **CPRE Surrey v Waverley Borough Council [2019] J.P.L 505 [35(3)-(5)]**

(3) *Relevant policy and guidance on the assessment of housing need is not framed in mandatory or inflexible style. No single methodology is prescribed, and no level of precision is specified. As this court said in *Jelson* (at paragraph 25) and *Hallam Land Management* (at paragraphs 50 and 53), the exercise does not lend itself to mathematical exactness. Indeed, such precision may well be misleading. While the decision-maker is expected to establish, to a reasonable level of accuracy, a level of housing need representing the "full, objectively assessed needs", this is not an "exact science" (see *Jelson* , *ibid.*). There may be no single right answer – especially perhaps where a housing market area embraces more than one administrative area and the preparation of local plans in the boroughs concerned is asynchronous, as often it will be (see *Oadby and Wigston Borough Council* , at paragraph 38). Where the decision-maker is considering the weight to be given to the benefit of new housing development in an area of shortfall, the "broad magnitude of the shortfall" is likely to be one of the factors to consider, but "great arithmetical precision" is not required (see *Hallam Land Management* , at paragraphs 47 and 51 to 53).*

(4) *The evaluation the decision-maker must carry out will always involve an exercise of planning judgment, and the scope for reasonable planning judgment here is broad. The degree of accuracy required in establishing the "full, objectively assessed needs" for housing will depend on the circumstances, and will itself be a matter of planning judgment. The court will only interfere if some distinct error of law is shown – for example, a misinterpretation of relevant policy or guidance, or a failure by the decision-maker to apply reasonable planning judgment to the available evidence, which may well be imperfect or incomplete (see *Jelson* , *ibid.*). It will not be tempted into an assessment of the evidence, expressing a preference of its own for one set of data or another, or forecasts from a particular source. Nor will it engage with the arithmetic unless the decision-maker's own calculations have clearly gone wrong.*

(5) Arguments contending what a decision-maker "should" or "could" or "might" have done in assessing housing need are unlikely to prevail. For a challenge to succeed, the applicant will always have to show that what was done was actually unlawful, not merely contrary to its own case at an inquiry or examination hearing. Otherwise, the proceedings are liable to be seen as an attempt to extend by other means a debate belonging only in that forum. It is at an inquiry or examination hearing that the parties have the opportunity to argue their case on housing need, not before the court."

44. On the facts in *Keep Bourne End Green*, following a number of earlier authorities, the High Court dismissed the challenge for a “legalistic, overly forensic, approach to policy guidance, particularly guidance addressed to practitioners, which the courts have repeatedly sought to discourage” [98].
45. The fundamental principle for present purposes is that the courts will not permit a challenge on grounds of an error of interpretation which is in reality a challenge to application of the applicable policy. This is highly relevant in this case.

(4) Sustainability Appraisal

46. There have been many challenges on the basis of unlawfulness in respect of Strategic Environmental Assessment (SEA) in the past 17 years. With certain very few exceptions, SEA grounds have been regularly dismissed, with the courts applying a very similar restrictive approach. The following principles are collected in *Aireborough Neighbourhood Development Forum v Leeds City Council* [2020] EWHC 1461 (Admin), a key example of a recent decision where the court rejected a challenge on SEA grounds (although the challenge was upheld on separate grounds).
47. A challenge on the basis of the content of an environmental report and the overall SEA procedure will focus upon **Regulation 12 and 13 of the Environmental Assessment of Plans and Programmes Regulations 2004** (“SEA Regulations”).
48. Regulation 12 provides:

"Preparation of environmental report

(1) Where an environmental assessment is required by any provision of Part 2 of these Regulations, the responsible authority shall prepare, or secure the preparation of, an environmental report in accordance with paragraphs (2) and (3) of this regulation.

(2) The report shall identify, describe and evaluate the likely significant effects on the environment of –

(a) implementing the plan or programme; and

(b) reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.

(3) The report shall include such of the information referred to in Schedule 2 to these Regulations as may reasonably be required"

49. Schedule 2, paragraph 8 provides that the Report should include:

"An outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information."

50. Regulation 13 provides in respect of "Consultation procedures", that every draft plan or programme for which an environmental report has been prepared in accordance with regulation 12 and its accompanying environmental report (i.e. "the relevant documents" - are to be made available for consultation in accordance with the provisions that follow:

"(2) As soon as reasonably practicable after the preparation of the relevant documents, the responsible authority shall –

(a) send a copy of those documents to each consultation body [as defined in regulation 4];

(b) take such steps as it considers appropriate to bring the preparation of the relevant documents to the attention of the persons who, in the authority's opinion, are affected or

likely to be affected by, or have an interest in the decisions involved in the assessment and adoption of the plan or programme concerned, required under [the SEA Directive] ("the public consultees");

*(c) inform the public consultees of the address (which may include a website) at which a copy of the relevant documents may be viewed, or from which a copy may be obtained; and
(d) invite the consultation bodies and the public consultees to express their opinion on the relevant documents, specifying the address to which, and the period within which, opinions must be sent."*

51. Regulation 12(3) states that the period referred to in paragraph (2)(d) "*must be of such length as will ensure that the consultation bodies and the public consultees are given an effective opportunity to express their opinion on the relevant documents.*"
52. It is now very well-established that a local planning authority can submit an addendum to an SEA environmental report during the course of an examination: ***Cogent Land v Rochford DC [2013] 1 P & CR 2***. The judgment merits full citation:

111. Under ground (4) the claimant relies, first, upon the language of Regulation 13 , which requires "every draft plan... and its accompanying environmental report" (prepared in accordance with the Regulations) to be made available for the purposes of consultation by informing the public "as soon as reasonably practicable" of where the documents may be viewed. However, in my judgement, this does not have the effect contended for by the claimant, that the Addendum was incapable as a matter of law of curing any earlier defects in the process. It means simply that the draft plan, and any accompanying environmental report there happens to be, must be available for public consultation as soon as reasonably practicable. This is a timing provision. It does not prescribe the content of the report. Still less does it have the effect that if, for some reason, the accompanying report is not wholly adequate at that time, it cannot be supplemented or improved later before adoption of the plan, for example by way of the Addendum in the present case.

112. I prefer the submissions that were made by the defendant and Bellway. First, it should be noted that "Strategic Environmental Assessment" is not a single document, still less is it the same thing as the Environmental Report: it is a process , in the course

of which the Directive and the Regulations require production of an “Environmental Report”. Hence, Article 2(b) of the SEA Directive defines “environmental assessment” as:

“the preparation of the environmental report, carrying out consultations, the taking into account of the environmental report and the results of the consultations in the decision making and the provision of information on the decision in accordance with Articles 4 to 9”.

113. Furthermore, although Articles 4 and 8 of the Directive require an “environmental assessment” to be carried out and taken into account “during the preparation of the plan”, neither Article stipulates when in the process this must occur, other than to say that it must be “before [the plan's] adoption”. Similarly, while Article 6(2) requires the public to be given an “early and effective opportunity ... to express their opinion on the draft plan or programme and the accompanying environmental report”, Article 6(2) does not prescribe what is meant by “early”, other than to stipulate that it must be before adoption of the plan. The Regulations are to similar effect: Regulation 8 provides that a plan shall not be adopted before account has been taken of the environmental report for the plan and the consultation responses.

114. The claimant relied upon several authorities said to support its submissions under ground (4).

115. The first case is a decision of the High Court in Northern Ireland, *Re Seaport Investments Limited* [2008] Env LR 23, a decision of Weatherup J on equivalent regulations in Northern Ireland which implemented, or purported to implement, the SEA Directive. The applicants in that case contended that the regulations had failed to transpose the Directive correctly in a number of respects. The applicants also contended that there had been a breach of the Regulations and the Directive on the facts of the case.

116. Weatherup J accepted the applicants' argument in relation to what he called the second transposition issue: see paras. 19 – 23 of the judgment. He then turned to whether there had been a failure to comply with the requirements of the Regulations and Directive.

117. At para. 47 he said:

“The scheme of the Directive and the Regulations clearly envisages the parallel development of the Environmental report and the draft plan with the former impacting on the development of the latter throughout the periods before, during and after the public consultation. In the period before public consultation the developing Environmental Report will influence the developing plan and there will be engagement with the consultation body on the contents of the report. Where the latter becomes largely settled, even though as a draft plan, before the development of the former, then the fulfilment of the scheme of the Directive and the Regulations may be placed in jeopardy. The later public consultation on the Environmental Report and draft plan may not be capable of exerting the appropriate influence on the contents of the draft plan.” [Emphasis added]

118. The claimant emphasised in particular the phrase “parallel development.” However, it is important to read the passage as a whole, in particular the words I have emphasised towards the end of it: they indicate that Weatherup J did not intend to lay down a general and absolute rule but was in truth stressing that whether or not the scheme of the Regulations and Directive is in fact breached will depend on the facts of each case.

119. At para. 49 Weatherup J said:

“Once again the Environmental Report and the draft plan operate together and the consultees consider each in the light of the other. This must occur at a stage that is sufficiently ‘early’ to avoid in effect a settled outcome having been reached and to enable the responses to be capable of influencing the final form. Further this must also be ‘effective’ in that it does in the event actually influence the final form. While the scheme of the Directive and the Regulations does not demand simultaneous publication of the draft plan and the Environmental Report it clearly contemplates the opportunity for concurrent consultation on both documents.” [Emphasis added]

120. At para. 51 Weatherup J concluded on the facts of that case that:

“When the development of the draft plan had reached an advanced stage before the Environmental Report had been commenced there was no opportunity for the latter to inform the development of the former. This was not in accordance with the scheme of Articles 4 and 6 of the Directive and the Regulations.” [Emphasis added]

121. *I accept the defendant's submission that, in Seaport , Weatherup J confirmed that as regards the requirement for a ER to “accompany” a draft plan, the Directive and Regulations do not require “simultaneous” publication of a draft plan and the ER.*

122. *The claimant also relied upon the decisions of Ouseley J in Heard (to which I have already made reference) and Collins J in Save Historic Newmarket Limited and other v Forest Heath District Council , the case which prompted the production of the Addendum. At para. 7 Collins J said:*

“The challenge is brought on two grounds. First it is said that there was a failure to comply with the relevant EU Directive and the Regulations made to implement it that the Strategic Environmental Assessment (SEA) did not contain all that it should have contained. This if established would render the policy made in breach unlawful whether or not the omission could in fact have made any difference. That, as is common ground, is made clear by the decision of the House of Lords in Berkeley Although Berkeley concerned an EIA, the same principle applies to a SEA. To uphold a planning permission granted contrary to the provisions of that Directive would be inconsistent with the Courts obligations under European Law to enforce Community Rights. The same would apply to policies in a plan.”

123. *However, it is important to note what the actual decision in that case was, and the basis for it. At para. 40, Collins J, in accepting the claimant's first ground of challenge in that case, said:*

“In my judgement, Mr Elvin is correct to submit that the final report accompanying the proposed Core Strategy to be put to the inspector was flawed. It was not possible for the consultees to know from it what were the reasons for rejecting any alternatives to the urban development where it was proposed or to know why the increase in the residential development made no difference. The

previous reports did not properly give the necessary explanations and reasons and in any event were not sufficiently summarised nor were the relevant passages identified in the final report . There was thus a failure to comply with the requirements of the Directive ...” [Emphasis added]

124. *I accept Bellway's submission that the claimant's primary argument seeks to extend the principles in Forest Heath and Heard beyond their proper limit. Those were both cases where the Court was satisfied that no adequate assessment of alternatives had been produced prior to adoption of the plans in those cases. Although they comment (understandably) on the desirability of producing an Environmental Report in tandem with the draft plan, as does Seaport , neither is authority for the proposition that alleged defects in an Environmental Report cannot be cured by a later document.*

125. *I also consider, in agreement with the submissions by both the defendant and Bellway, that the claimant's approach would lead to absurdity, because a defect in the development plan process could never be cured. The absurdity of the claimant's position is illustrated by considering what would now happen if the present application were to succeed, with the result that policies H1, H2 and H3 were to be quashed. In those circumstances, if the claimant is correct, it is difficult to see how the defendant could ever proceed with a Core Strategy which preferred West Rochford over East. Even if the defendant were to turn the clock back four years to the Preferred Options stage, and support a new Preferred Options Draft with an SA which was in similar form to the Addendum, the claimant would, if its main submission is correct, contend that this was simply a continuation of the alleged “ex post facto rationalisation” of a choice which the defendant had already made. Yet if that choice is on its merits the correct one or the best one, it must be possible for the planning authority to justify it, albeit by reference to a document which comes at a later stage of the process.*

126. *As both the defendant and Bellway submit, an analogy can be drawn with the process of Environmental Impact Assessment where it is settled that it is an: “unrealistic counsel of perfection to expect that an applicant's environmental statement will always contain ‘the full information’ about the environmental impact of a project. The Regulations are not based upon such an unrealistic expectation. They recognise that an environmental statement may be deficient, and make provision through the publicity and consultation processes for any deficiencies to be identified so*

that the resulting 'environmental information' provides the local planning authority with as full a picture as possible. There will be cases where the document purporting to be an environmental statement is so deficient that it could not reasonably be described as an environmental statement as defined by the Regulations ... but they are likely to be few and far between."

See Sullivan J. in *R(Blewett) v. Derbyshire County Council* [2004] Env LR 29 at para. 41, approved by the House of Lords in *R (Edwards) v. Environment Agency* [2008] Env LR 34 at paras. 38 and 61.

127. Accordingly, I reject the claimant's ground (4) and conclude that the Addendum was capable, as a matter of law, of curing any defects in the earlier stages of the process.

53. The approach to the assessment of "reasonable alternatives" has itself been the subject of repeated challenge, often unsuccessful challenge. The leading cases in this respect are *R (Friends of the Earth) v. Forest of Dean DC* [2015] P.T.S.R. 1460 and the Heathrow Airport litigation (Divisional Court: *R (Spurrier) v. Secretary of State for Transport* [2019] J.P.L. 1163, as upheld in Court of Appeal: *Plan B Earth v SST* [2020] P.T.S.R. 1446 and Supreme Court: *R(Friends of the Earth) v SST* [2021] P.T.S.R. 190)
54. In *R (Friends of the Earth) v. Forest of Dean DC* [2015] P.T.S.R. 1460, Hickinbottom J observed of Article 5(1) of the SEA Directive (ie. the provision transposed by Regulation 12 of the SEA Regulations:

"(v) Article 5(1) refers to "reasonable alternatives taking into account the objectives... of the plan or programme..." (emphasis added). "Reasonableness" in this context is informed by the objectives sought to be achieved. An option which does not achieve the objectives, even if it can properly be called an "alternative" to the preferred plan, is not a "reasonable alternative". An option which will, or sensibly may, achieve the objectives is a "reasonable alternative". The SEA Directive admits to the possibility of there being no such alternatives in a particular case: if only one option is assessed as meeting the objectives, there will be no "reasonable alternatives" to it.

(vi) The question of whether an option will achieve the objectives is also essentially a matter for the evaluative judgment of the authority, subject of course to challenge on

conventional public law grounds. If the authority rationally determines that a particular option will not meet the objectives, that option is not a reasonable alternative and it does not have to be included in the SEA Report or process."

55. In *Spurrier*, the Divisional Court (Hickinbottom LJ and Holgate J) held in respect of any claim founded on the basis of alleged deficiencies in an environmental report would face a high threshold:

"433. The information in article 5(1) and Annex I which is to be included in an environmental report is that which "may reasonably be required" (article 5(2)). That connotes a judgment on the part of the authority responsible for preparing the plan or programme. Such a judgment is a matter for the evaluative assessment of the authority subject only to review on normal public law principles, including Wednesbury unreasonableness.

434. Where an authority fails to give any consideration at all to a matter which it is explicitly required by the SEA Directive to address, such as whether there are reasonable alternatives to the proposed policy, the court may conclude that there has been non-compliance with the Directive. Otherwise, decisions on the inclusion or non-inclusion in the environmental report of information on a particular subject, or the nature or level of detail of that information, or the nature or extent of the analysis carried out, are matters of judgment for the plan-making authority. Where a legal challenge relates to issues of this kind, there is an analogy with judicial review of compliance with a decision-maker's obligation to take reasonable steps to obtain information relevant to his decision, or of his omission to take into account a consideration which is legally relevant but one which he is not required (e.g. by legislation) to take into account (Secretary of State for Education and Science v Tameside Metropolitan Borough Council [1977] AC 1014 at page 1065B; CREEDNZ Inc v Governor-General [1981] NZLR 172 ; In re Findlay [1985] AC 318 at page 334; R (Hurst) v HM Coroner for Northern District London [2007] UKHL 13; [2007] AC 189 at [57]). The established principle is that the decision-maker's judgment in such circumstances can only be challenged on the grounds of irrationality (see also R (Khatun) v Newham London Borough Council [2004] EWCA Civ 55; [2005] QB 37 at [35]; R (France) v Royal London Borough of Kensington and Chelsea [2017] EWCA Civ 429; [2017] 1 WLR 3206 at [103]; and Flintshire County Council v Jeyes [2018] EWCA

Civ 1089; [2018] ELR 416 at [14]). The "Blewett approach" is simply an application of this public law principle.

435. As we have described (in paragraphs 147 and following above), where a legal challenge of the kind described in the preceding paragraph is brought, the question whether the decision-maker has acted irrationally, be they a local planning authority or a Minister, demands the intensity of review appropriate for those particular circumstances."

56. This part of the judgment was not interfered with by the Court of Appeal or Supreme Court decisions.
57. The principles identified above mean that the courts are generally slow to interfere with questions of the nature of what is a "reasonable" alternative having regard to the plan's objectives: see *Aireborough Neighbourhood Development Forum v Leeds City Council* [2020] EWHC 1461 (Admin), [86]-[87].
58. Finally, where the court does identify a breach of the EIA Regulations is accepted, the court retains a discretion to refuse relief if the claimant has in practice been able to exercise the rights under European legislation and there has been no substantial prejudice: see *Walton v Scottish Ministers* [2013] PTSR 51 at [139 and 155] and *R (Champion) v North Norfolk DC* [2015] 1 WLR 3710 at [54], citing at [58] Lord the CJEU decision in *Gemeinde Altrip v Land Rheinland-Pfalz* (Case C-72/12) 2014 PTSR 311.

Ground 1: Purported misinterpretation of LPP1

59. This ground of challenge attacks the LPP2 Inspector's approach to the additional 505 dwellings, and in particular where to allocate further development to accommodate the same, based on the interpretation of what the LPP1 Inspector found. This is the only ground from which the whole claim relies; should it be dismissed, the other following three grounds stand and fall with the first. The following is said in response.
60. **First**, the Courts have repeatedly stated that parties should not be using the statutory review process to re-run arguments heard and addressed. To this end, given the first ground's ultimate conclusion is that the additional dwellings should not have been

allocated in the north-east part of the Mendip district, it is worth reciting in full what the Inspector's report stated at paragraph 65,

*"The 505 dwellings provision appears in a box in the LPP1 Key Diagram, which refers to this quantum of additional housing "to be allocated in the District". **This was raised by representors in support of spreading any additional development generally across the District, and not in the north-east of Mendip.** However, this would be contrary to the strategic thrust of paragraphs 4.21 and 4.7 in the LPP1, which focus on the need to consider making specific allocations with reference to the towns of Radstock and Midsomer Norton rather than distributing the additional development generally across the District."*

61. From the above passage alone, it is obvious that what is being brought as part of this challenge is nothing more than a re-run of the same arguments heard by the Inspector.
62. **Second**, it seems utterly bizarre to accuse the Inspector of having erred, simply, by considering precisely how the LPP1 sought to explain the role of LPP2 in the future, and particularly how an Inspector may approach the issue of additional dwellings. To understand the 'genesis' of the LPP1 requirement, in circumstances where differing views about it were being expressed at the hearings, and where there is a need for an Inspector to exercise judgement on the matter having heard from representors, is an entirely reasonable approach. He did not go off on a solo foraging exercise to discover what it meant, and in the document where he is attempting to explain his reasoning, the Claimant seeks to apply the 'legalistic, overly forensic' approach that the courts have repeatedly sought to discourage.
63. **Third**, that the 505 additional dwellings are to be distributed 'to the District' is really plainly obvious. Where precisely in the District this is to be done is a question left open by the Inspector considering LPP1. This is left to the LPP2 examining Inspector to consider in detail as he has clearly done so. The Claimant just do not like the answer.
64. **Fourth**, the Claimant seeks to mischaracterise one paragraph in the IR (55) and give it a status it simply does not deserve. The Courts have discouraged repeatedly this approach and the IR should be read as a whole. In response, the following is said:

- a) Core Policy 2 (@ Core / 335) does not actually specifically refer to 'additional requirement' as quoted both at IR 55, and as seems to be interpreted as a 'material error' in the SfG (49 & 50); this reference in CP2 is actually 'additional dwellings will be made in line with the table below'. [Core / 287]
- b) At the table (@ Core / 336) there *is* an explicit mention of the 'additional requirement 2011 to 2029 as per 4.21 of the supporting text,' and it is acknowledged that the additional 505 is placed under the heading of 'District'; [Core / 288]
- c) The explicit mention of 4.21 is material in these circumstances; it helps guide the LPP2 to understand where these additional dwellings are to be placed, where the pressures are in the District, and what the Inspector is required to do in order to make the plan sound;
- d) There is explicit mention also of a certain part of the District in 4.21; namely the north/north-east, with again explicit reference to two towns; furthermore, the logic follows through to 4.7. To say that 4.21 only serves to explain where the additional dwellings come from, but has **nothing** to do with how and where they ought to be allocated through LPP2 is to misunderstand it fundamentally;
- e) To ignore these facts with a view to essentially starting a new District wide exercise would not be logical, nor would it make any rational sense as to what was meant by the LPP1 Inspector;
- f) The Inspector's reading of LPP1 is not in isolation; it is read alongside the previous Inspector's Report, and the outcome complained of here is also subject to the multiple discussions had and judgement reached;
- g) The Claimant's proposition here fundamentally distorts the relationship between LPP1 and LPP2 in such a way as to couch its arguments to suggest that the former and the Inspector's Report that preceded it, were external documents which should not have formed part of the Inspector's analysis and judgement. There is a clear, functional and critical connection between these two documents, which then make a whole. One sets the scene for the other, but

it does not determine once and for all what is to happen in it; this is why reliance on the *Cherkley Campaign* authority is misplaced for present purposes;

- h) When the Inspector attempts to understand why '*nowhere else in Mendip is singled out for comment in either the IR or LPP1*' (IR 70) he is fundamentally correct that this is what was done. In fact, to have failed to even grapple with this point would have been a material failure on this part. The Inspector then draws his own conclusions as to the significance of this; guided by the documents and representations made by parties, including the Claimant. The conclusions cannot be said to be irrational simply because the Claimant is aggrieved by the decision reached.
- i) The meaning sought to be attached this by the Claimant (§ 53-55) makes no sense. Settlements in the north were those identified in LPP1 as under pressure for future growth, hence why a further look through LPP2 in the future would be necessary and required. Again, to have failed to understand this would have meant that the Inspector failed to address a critical question;
- j) Further to this, had the Inspector failed to grapple with (still less highlight) the singling out of the role played by the north/north east part of the District, there would be similar accusations to be made of failure to take into account material considerations; though this time probably from other parties; and
- k) The simple reality is that the result of reading the policy fully, understanding how LPP1 came together, what that Inspector intended, and what the text in 4.21 points to, all lead to the judgement of allocating a site in the Claimant's Parish, as well as other sites, a decision with which they remain aggrieved. The guiding principles are around giving the Council the flexibility they need through the plan period by allocating these 505 dwellings.

65. Nothing actually turns on what the Inspector says in IR 55 alone, or any other paragraph of the report on its own. The document should be read as a whole.

66. LPP1 is a document which leaves a significant task for LPP2 to resolve; namely how the housing requirement is to be addressed, and the need to identify sufficient sites to maintain the moving picture of the 5YHLS. A significant time period had elapsed between the two. The Claimant's understanding appears to be that the task for the LPP2 Inspector was a static one, a strict approach to be taken by a complimentary document designed to be part of a whole picture for Mendip District.
67. For the Claimant to succeed, the Court would have to accept that;
- a) LPP1, its supporting text, and LPP2 examination process ought to be treated as though they are two separate and unrelated events / documents;
 - b) The LPP2 examining Inspector's role was limited in how his exercise / discretion was to be exercised; that he ought to have almost interpreted CP1 and/or CP2, the supporting text as a statute, with little flexibility and judgement to be applied;
 - c) The Inspector explicitly ignored all the points being run through this challenge, as made at the time, as heard through a disproportionately extensive extension of examination hearings dealing with this very point alone;
 - d) LPP1 and the Inspector's report leading up to it do not form part of the picture of how LPP2 should be carried forward, but that they represent wholly separate extrinsic documents – the reading together of which would be to contaminate; and
 - e) The overly legalistic reading of the Inspector's conclusion (drawing strength predominantly from a couple of passages) is appropriate.
68. **Finally**, it is noteworthy that the Claimant does not challenge the following.
- a) There is no suggestion that the Inspector has allocated in either an unsustainable location or allocated too much / not enough housing in a particular location;

- b) There is no suggestion that the allocations cause any material harm to the natural environment or historic environment; or any other harm for that matter;
 - c) The Claimant does not explain what an alternative or different interpretation of LPP1 in its highly specific attack would have looked like; the point being here is that they made their arguments, the Inspector disagreed, and he explained his reasoning for doing so.
69. **In sum**, the interconnected relationship between LPP1 and LPP2 must be properly understood. Where the additional 505 dwellings ought to go was a matter which required policy interpretation with afforded flexibility, and an Inspector judgement following multiple hearings and site visits. There is nothing irrational or unlawful about the Inspector's approach when his report, deliberations, interim note, evidence heard and conclusions reached are read carefully together.

Ground 2: purported failure to consider reasonable alternatives to allocating additional 505 dwellings in the north east of the District

70. This ground is self-evidently parasitic on Ground 1 succeeding. Should the Court accept that there has been a material misinterpretation of LPP1, then it follows that the steps taken by the Inspector following this could not have been correct. The Claimant does not couch this argument in the alternative either. This ground should be easily rejected once the first ground is dismissed. The following is still worth noting.
71. **First**, for the aforementioned reasons, the Inspector's approach to the requirement to allocate 505 dwellings within the north-east part of the District was a rational approach to take. It was based on a sound understanding of how LPP1 and LPP2 sit together to make up the Mendip District Local Plan. It did not represent, contrary to the Claimant's submissions, a 'major policy change' in any way at all.

72. **Second**, the Inspector had recognised (as explained through his Interim Note) that there was not a need to re-start the SA process from the start again. That there was a need for a proportionate and focused site allocations exercised.
73. **Third**, what the Claimant still fails to accept is that, in the circumstances, the exercise set out in the 505 dwellings background paper¹⁸, the Second SA Addendum¹⁹ and the response generally to the Interim Note, was to undertake an exercise which sought to build on the site selection process and sustainability appraisal undertaken to submission.
74. **Fourth**, in the context of what is set out above, and what is stated in the witness statement from Mr Andre Sestini, a wider assessment of other villages in the rest of the District would not have been a logical approach to take.²⁰ This is the 'evaluative judgement of the authority' as he has explained and as endorsed by the Courts. (*See Friends of the Earth above*)
75. **Fifth**, some points made in the pre-action response are worth repeating briefly.
- a) No deficiency has been identified in relation to the SEA regulations in so far as it relates to the plan as a whole;
 - b) LPP2 is focused on dealing with site specific matters and policies; for the aforementioned reasons there was no reasonable reason to undertake a district-wide analysis;
 - c) The requirement to appraise the area pursuant to the 505 allocation was not narrowly defined, again for the reasons set out above.

¹⁸ Supp / 231-232, paragraphs 15-22

¹⁹ Supp / 268-272

²⁰ See paragraphs 17-22 of Mr Sestini's witness statement

[Supp / 351 to 352]

[Supp / 388 to 392]

76. **Finally**, even in the event the Court were to identify a breach (which is not accepted) then it retains the discretion to refuse relief. For all these reasons, this second ground of challenge should also be dismissed.

Ground 3: Purported failure to have regard to CP2.2(c) and the requirement for proportionate development in rural settlements and/or provide adequate reasons to explain how this had been taken into account.

77. This is yet another ground which requires Ground 1 to succeed. The salient elements of the complaint relate to the passage below relating to Core Policy 2.2 (c) which provides,

“c. Other allocations of land for housing and, where appropriate, mixed use development, outside of Development Limits through the Site Allocations process in line with:

i) the principle of the proportionate growth in rural settlements guided by the requirements identified within supporting text above

ii) informed views of the local community

iii) the contribution of development since 2006 towards identified requirements in each place, development with planning consent and capacity within existing Development Limits.”

78. Perhaps the most obvious example of a ground of challenge blatantly attacking an Inspector’s judgement, it is this one. This ground will be also be rejected. In response, we state the following.

- a) It is acknowledged that the pre-submission and submission version of the LPP2 did not seek allocations in Norton St Philip or Beckington. It is also correct to highlight that the 505 background paper and the Council’s own evidence has consistently acknowledged that there has been a significant levels of development in NSP and other villages;

- b) Notwithstanding this, the Inspector is entitled to form his own view, exercising his judgement, mindful of the picture not only in these two settlements but the wider District as a whole. Crucially, being mindful also of the plan period as a whole too. ‘Proportionate Growth’ is not defined in any numerical terms, but it does require a level of judgement to be exercised in the circumstances, something the Inspector did having regard to all the evidence before him. This ground is a simple disagreement with the Inspector;
- c) Further, ‘proportionate growth’ was not the *only* factor to be taken into account when selecting the preferred options for consultation;
- d) The arguments advanced by the Proposed Claimant were made to the Inspector and he clearly didn’t agree with them in his conclusions; the ground clearly acknowledges that these same representations were made;
- e) Settlement requirements are of course a *minimum* and this was a specific main modification of the LPP1 Inspector. There is no specific provision, policy interpretation or legal principle identified by the Claimant that suggests they ought to be treated as a cap or a maximum;
- f) Far from just putting more housing allocations in NSP that could be disproportionate, by way of example, in his report he explains his reasoning for deducting some 26 dwellings by rejecting Site RD1. This is yet another example of the Inspector exercising his judgement;
- g) It is ultimately a matter for the Inspector, having heard all the evidence to reach his own judgement, and he did so whilst giving plenty of reasons, mindful of proportionality and consistency with LPP1 throughout the process including,

*“94. The planned housing growth for Shepton Mallet, Wells and the Primary and Secondary Villages **are proportionate and consistent with LPP1**, as can be seen in Table 4a in MM149. (emphasis added)*

95. *On the basis of the above considerations, and subject to the above modifications, I conclude that the overall distribution of housing in the Plan is sound and in accordance with LPP1."*

- h) The above passage does not relate to allocations in the north-east *per se*, it is acknowledged, but the point is about the Inspector's approach *as a whole*; again beyond the narrow interests of the Claimant. This was illustrated by when looking at **NSP1**, his reasoning and conclusions culminating in paragraph 142,

142. The two village allocations in Beckington and Norton St Philip comprise a modest but important component of the additional 505 dwellings required for the north-east of the District. Development of both sites are also subject to habitat replacement, as set out in MMs 69 and 114.

79. This ground is nothing more than a mere disagreement with the Inspector.

Ground 4: Decision to allocate NSP1 and BK1 through main modifications to LPP2 was irrational

80. This ground is parasitic on the success of the other grounds cited above. It is similarly without merit and should be rejected by the Court. Contrary to what is being claimed in the grounds, the Claimant needs to succeed on its first ground for this ground to succeed. The following points are added by way of succinct summary.
81. **First**, for the aforementioned reasons, it was clearly open to the Inspector to interpret the requirement to allocate an additional 505 dwellings as a strategic expectation which stemmed from LPP2, in consultative process involving his examination.
82. The Inspector's judgement has been applied to this matter and he has reached a view with which clearly the Proposed Claimant disagreed.
83. It is even worth recalling what the Court of Appeal said about this in passing;

52. *Following comments made by the inspector charged with the examination of the emerging local plan (LLP2), Mendip appreciated that policy CP2 did require the allocation of housing in the north east of the district, and that it was to be satisfied in the primary villages, of which Norton St Philip is one. Mendip therefore found a site in Norton St Philip on which 27 dwellings could be built. That site is, coincidentally, owned by Lochailort but it is not one of the LGSs.*²¹

- a) This interpretation given to the Court of Appeal in relation to a separate matter was also accepted by the High Court. The point here is it was showing, in real-time, the Council appreciating and acting on different elements of LLP1. Nevertheless, it does not tally up with the Claimant's interpretation;
- b) To exceed a requirement is not to have a shield against all future development; plainly, there is a strategic objective of ensuring that the District is on top of how development will be spread across the plan period.
- c) The Council's position in the submission document is neither here nor there. No Council would be judged based on what it **submitted** to be examined; all Council would be judged based on what an Inspector has **examined**, applied his judgement and ultimately found **sound**;
- d) The alternative points have been addressed above, they're not repeated here;
- e) The Claimant still fails to understand what a spatial strategy is about; it is more to do with the hierarchy of towns and primary / secondary villages. The allocations which are distributed taking account of the strategy does not alter the status of the sites as either primary or secondary villages.

84. This ground should be roundly rejected.

²¹ R (oao) Lochailort Investments Ltd v Mendip DC & Norton St Philip Parish Council [2020] EWCA Civ 1259

Appropriate Remedy

85. The Council cannot see how this purported partial quashing sought can be sustainable. It is the Council's position that, should the Court accept the Claimant's case – particularly on Ground 1 – it would undermine the understanding of LPP1. Further, it would also attack the integrity of how the Inspector approached the allocation of additional dwellings in relation to the 505, which will undoubtedly contaminate his reasoning on other allocations. The Claimant accepts as much (see paragraph 87).
86. In short, the Claimant's position as to what the Court ought to do remains completely opaque. The Defendant also resists any interim order seeking to suspend policies in the now adopted LPP2. This would undermine the full weighting to be applied by decision makers at the Council and/or any forthcoming appeals.
87. The Council reserves its position to see how this ground develops.

Aarhus Claim

88. The Council initially reserved its position on whether to accept that the claim is an Aarhus Convention Claim (CPR 45.41). The Council now accepts that this is Aarhus Convention Claim within the meaning of the Civil Procedure Rules.
89. The Council has also since examined the Schedule of Claimant's Financial Resources, and does not take any point on them. The Court is invited to consider them for itself.

Conclusion

90. For all the reasons set out above, the Court is invited to refuse permission fully.
91. In the event that the Court is minded to grant permission, only Ground 1 has any arguable merit worth any consideration from the Court.

92. The Court should not entertain the argument of seeking to suspend elements or parts of a newly adopted Local Plan. This step has no precedent known to the Council and would undermine the Plan as a whole.
93. The Claimant do pay the Defendant's costs to be assessed if not agreed.

Hashi Mohamed

No5 Chambers, London

16 February 2022

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT

IN THE MATTER OF A CLAIM FOR STATUTORY REVIEW PURSUANT TO SECTION
113 PLANNING AND COMPULSORY PURCHASE ACT 2004

BETWEEN:

NORTON ST PHILIP PARISH COUNCIL

Claimant

- and -

MENDIP DISTRICT COUNCIL

Defendant

- and -

(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING
AND COMMUNITIES

(2) LOCHAILORT INVESTMENTS LIMITED

Interested Parties

DETAILED GROUNDS OF RESISTANCE ON BEHALF OF
THE SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES

References such as: [Core/x] are to pages in the Core Bundle; [Supp/x] are to pages in the Supplementary Bundle; [IRx] are to paragraphs in the Inspector Report [Core/119-162] under challenge; [SFG§x] are to paragraphs in the Claimant's Statement of Facts and Grounds; [DGD x] are to paragraphs in the Defendant's Grounds of Defence; and [CR§x] are to paragraphs in the Claimant's Reply

[Core / 190 to
233]

I. INTRODUCTION AND OVERVIEW

1. The Claimant brings a planning statutory review pursuant to s.113 of the Planning and Compulsory Purchase Act 2004 challenging the Defendant's adoption of the *Mendip District Local Plan 2006-2029 Part II: Sites and Policies ("LPP2")* on 20 December 2021.

2. The Secretary of State has been joined as an Interested Party on the basis that LPP2 was informed by the recommendations of the Inspector appointed by the Secretary of State to conduct the examination.
3. Permission to apply for statutory review was granted by Lang J on 12 April 2022.
4. Given that the Claimant's grounds of challenge focus heavily on the reasoning of his Inspector – and as he considers those grounds to be misconceived – it is necessary and appropriate for the Secretary of State to respond by way of these Detailed Grounds of Resistance.
5. By way of overview, it is the Secretary of State's case that the Inspector did not err in law:

(1) **Ground 1: Misinterpretation of Mendip District Local Plan 2006-2029 Part I: Strategies and Policies ("LPP1")** - The Inspector concluded that it was *"appropriate and sustainable for an additional 505 dwellings to be allocated within the north-east part of the District, primarily centred on the towns of Radstock/Midsomer Norton"* [IR84] and recommended main modifications to this effect, taking account of:

- (a) the *"strategic direction"* evident from both LPP1 itself and the allied examining LPP1 Inspector's report that, as part of LPP2, the Council should *"consider development allocations"* in the north-east of the District in order to meet the 'additional requirement' for 505 dwellings [IR59-72]; and,
- (b) quite apart from that strategic direction, that there were a range of *"economic, social and housing need"* justifications for making additional development allocations within the north-east of the District [IR73-84].

This was a judgement which the Inspector was entitled to reach. It was not predicated on a misinterpretation of LPP1.

(2) **Ground 2: Failure to consider reasonable alternatives to allocating 505 dwellings in the north-east of the District** – the question of whether there were reasonable alternatives to allocating the 505 additional dwellings in the north-east of the District, and if so what those reasonable alternatives were,

was an evaluative judgement for the Defendant, challengeable only on public law grounds: (*R (Friends of the Earth) v Welsh Ministers* [2015] EWHC 776 (Admin)). In light of the conclusions of the Inspector which are the subject of the Ground 1 challenge (as summarised above), it was open to the Defendant – and certainly not irrational of it – to conclude that any alternative to development allocations in the north-east of the District did not constitute a reasonable alternative.

(3) **Ground 3: Failure to have regard to Policy CP2.2(c) and the requirement for proportionate development in rural settlements and/or provide adequate reasons to explain how this had been taken into account** – there is no proper basis for alleging that the Inspector failed to have regard to this policy: he made repeated references to Policy CP2 generally, and it is clear that he was cognisant of the ‘principle of proportionate growth in rural settlements’ referred to in Policy CP2.2(c). The reasons he gave in respect of the allocations at Norton St Philip (NSP1) and Beckington (BK1) were plainly adequate.

(4) **Ground 4: Decision to allocate NSP1 and BK1 through main modifications to LPP2 was irrational** – this ground is entirely parasitic on the earlier grounds of challenge. The alleged irrationality stems from an allegation that LPP1 has not been properly construed (i.e. Ground 1) and the requirements of CP2.2 were not properly taken into account (i.e. Ground 3). As they are misconceived, so too is this ground.

II. FACTUAL BACKGROUND

6. The background to this claim is set out in SFG §4-29, and DGD §9-33. The Secretary of State is content to rely on this as a broad summary of the factual background to this claim, though not the commentary thereon.¹

III. RESPONSE TO GROUNDS OF CHALLENGE

¹ For instance, he does not accept the Claimant’s contention (SFG§29) that that when considering the economic, social and housing needs evidence to justify the allocation of 505 dwellings in the north-east of the District that the Inspector relied ‘considerably’ on the findings in the SA Second Addendum.

Ground 1: Alleged Misinterpretation of LPP1

7. There is no dispute that LPP1 includes an ‘additional requirement’ for 505 dwellings in the District to be addressed in LPP2.² This additional requirement arose during the preparation and examination of LPP1, as a result of slightly higher annual needs from 2011 than had originally been estimated, as well as the rolling forward of the plan period by an additional year.
8. Following significant debate on this subject during the LPP2 examination – including specific hearing sessions devoted to it – the Inspector concluded that, in order to meet this additional requirement, it was *“appropriate and sustainable for an additional 505 dwellings to be allocated within the north-east part of the District, primarily centred on the towns of Radstock/Midsomer Norton”* [IR84] and recommended main modifications to this effect.
9. In doing so the Inspector rejected as unsound the Defendant’s original approach to this issue, which was to contend that the additional requirement had been met through ‘non-Plan commitments’ and therefore that no further allocations were required.³ The Inspector concluded that this approach fell short of the *“expectations of the LPP1 Inspector and LPP1 itself”* [IR68]. He also pointed to the significant benefits of meeting the additional requirement through planned commitments by way of allocations, rather than by way of ‘windfall’ (i.e. non-planned development) [IR66].
10. His conclusion that the appropriate approach to meeting the additional 505 dwellings requirement was to make further allocations in the north-east of the District, primarily around the towns of Radstock and Midsomer Norton, was informed by two considerations set out in his report:

(1) First, at IR59-72, the fact that both LPP1 itself and the LPP1 Inspector’s report established a *“strategic direction”* that the Defendant Council would, as part of LPP2, *“consider making specific allocations in this area to meet the development needs of Mendip”* (*emphasis added*) [IR69]; and

(2) Second, at IR73-84, that there were economic, social and housing needs justifications for the allocation of the additional 505 dwellings in this area. These justifications included: the significant functional links between the

² See LPP1 Core Policy 2 [Core/335] as well as para 4.21 of the supporting text [Core/327]

³ See Pre-Submission LPP2, para 3.33-34 [Core/262]

north-east of Mendip and the cities of Bath and Bristol [IR74-75]; the issues this area faced in terms of house prices, housing affordability and delivery of affordable housing [IR76-81]; the relatively low level of housing allocations in the north-east [IR82]; and the availability of sustainable sites within this area [IR83].

11. The Inspector concluded that, taken together, these considerations formed a “robust case” that the allocation of “505 dwellings in the north-east of the District is justified, sound and consistent with the aims and objectives of LPP1” [IR84].
12. The central allegation in this ground concerns the Inspector’s first consideration (this was confirmed by the Claimant in CR§5).
13. The Claimant contends that the Inspector wrongly concluded that LPP1 included a requirement that the 505 additional dwellings should be allocated in the north-east of the District. In other words, the Claimant alleges that the Inspector fell into error by interpreting LPP1 as though it obliged the Defendant in LPP2 to allocate the additional housing to this part of the District, when it did not.⁴
14. The short – and complete – answer to this ground is that that Inspector did no such thing. The Claimant’s grounds mischaracterise the Inspector’s reasoning.
15. It is clear from his report that the Inspector fully understood that LPP1 only went as far as to establish a “strategic direction” that the Council would “consider” making allocations in the north-east part of the District as part of LPP2 (and not that it was obliged to do so):
 - (1) At IR65 the Inspector states that “the strategic thrust of paragraphs 4.21 and 4.7 in the LPP1...focus on the need to consider making specific allocations with reference to the towns of Radstock and Midsomer Norton...” (emphasis added)
 - (2) At IR67 he accurately summarises the relevant sentence from paragraph 4.21 of LPP1, namely that allocations to meet the additional 505 dwelling requirement “are likely to focus on sustainable locations in accordance with the strategy in core policy 1 and may include land in the north-east of the District, primarily adjacent to the towns of Radstock and Midsomer Norton” (emphasis added).

⁴ SFG§45 and 49; CR§4

(3) At **IR69** the Inspector accurately summarises the relevant parts of paragraph 4.7 of LPP1 stating that this paragraph *“adds further strategic input on this issue; firstly by drawing attention to the potential for new development on the fringes of Midsomer Norton and Radstock; secondly by stating that the Council will consider making specific allocations in this area to meet the development needs of Mendip...”* (emphasis added)

(4) Finally, at **IR71** the Inspector draws this together, concluding *“[i]t is clear to me that the strategic direction in LPP1 requires the Council to consider development allocations to meet the needs [of the District] in the north east of the District”* (emphasis added)⁵

16. It is true, as the Claimant identifies⁶, that the supporting text in LPP2 to the allocations at Beckington and Norton St Philip appears to suggest that Policy CP2 of LPP1 *required* the additional 505 dwellings to be located in the north-east of the District.⁷ However, this reference cannot give rise to the inference that the Inspector erred in his interpretation of LPP1 in circumstances where:

- (1) As demonstrated above, in his own report the Inspector correctly interpreted the approach set out in LPP1; and
- (2) An accurate summary of the approach adopted in LPP1 is recorded earlier in LPP2 as follows:

“10.6.2 LPP1 Core Policy 2 identified an additional 505 dwellings as part of the adopted local plan requirement which was not allocated to a specific settlement. The 505 dwellings result from rolling forward the plan period to 2029 and the Review of Housing Requirements (2013) considered in the LPP1 examination. LPP1 Paragraph 4.21 explains that allocations should be in sustainable locations in accordance with the overall spatial strategy and may include land in the north/north-east of the District, primarily on land adjacent

⁵ The Claimant’s Reply alleges that the inclusion of the words in brackets “[of the District]” in this quotation distorts rather than clarifies the meaning of this passage: CR§4(c). This is not correct. The inspector was not suggesting in this passage that the additional 505 dwellings constituted a need specific to the north-east of the district. He understood that it was district-wide need, but considered it appropriate that these needs should be met in the north-east of the district. This much is clear from: (a) the language used in [DL71] (itself *“meet the needs in the north-east...”* not *“meet the needs of the north-east”*) and, more fundamentally, (b) it is clear from the remainder of the report that he understood that additional allocations were necessary *“to meet the development needs of Mendip”* [DL69]

⁶ SFG, §45

⁷ LPP2, para 11.2.2 [Core/79] & 11.20.3 [Core/87]

to the towns of Midsomer Norton and Radstock. LPP1 Paragraph 4.7 specifically identifies a need to consider allocations in Local Plan Part II in this part of the District to meet Mendip's development needs." [Core/69] [Core / 140] ("emphasis added")

17. The height of the Claimant's case on this ground is based on the infelicitous wording in two passages of the supporting text to LPP2⁸. Focus on these passages, without having proper regard to either the document as a whole, or, more importantly, the plainly correct interpretation of LPP1 as set out in the Inspector's Report, constitutes the type of illegitimate nit-picking which the courts have regularly warned against.
18. It follows that the central basis on which the Claimant advances this ground of challenge is misconceived. Ground 1 of the Challenge should be rejected on this basis alone.
19. However, for completeness it is right to record that none of the remaining allegations within Ground 1 give rise to an error of law:

- (1) **First**, the contention that the Inspector erred in his approach by giving detailed consideration to the LPP1 Inspector's Report (SFG §46) is wholly untenable. LPP1 and LPP2 are two parts of the same Local Plan⁹, with the former providing the strategic direction for the latter. It was entirely unsurprising therefore that the LPP2 Inspector would have regard to the LPP1 Inspector's report when arriving at a judgement as to where the additional 505 dwellings should be allocated. Having examined the LPP1 Inspector's report in **IR57-63**, the LPP2 Inspector concluded that it was "*the LPP1 Inspector's view...that [LPP2] should clearly consider the possibility of allocating housing sites on the edge of the towns of Midsomer Norton and Radstock*" (**IR63, emphasis added**). He then went on in **IR65-IR71** to separately consider what LPP1 established in terms of a "strategic direction": see paragraph 15 above. He referred to both (as well as to the economic, social and housing needs justifications) when arriving at his judgement as to the appropriate approach [**IR84-85**]. There was nothing unlawful about this. Contrary to the Claimant's averment (SFG§46) it did not offend the principles established in *Gallagher Ltd v Cherwell District Council* [2016] EWHC 290.

⁸ See SFG §45 and CR §4a

⁹ LPP2, para 1.1 Core/50

- (2) **Second**, the Inspector's focus on paras 4.21 and 4.7 of LPP1 when construing policy CP2 was not "misplaced", nor did his approach elevate supporting text to the status of policy (SFG §49-52). Policy CP2 states: "*Additional requirement 2011 to 2029 as per 4.21 of the supporting text*" (emphasis added). [Core/335 & 336]. Paragraph 4.21 in turn expressly cross references para 4.7 [Core/322]. It was therefore entirely appropriate, and certainly not unlawful, for the Inspector to have regard to these paragraphs when considering what LPP1 said about addressing the 'additional requirement'. Moreover, as was recognised by the Inspector (**IR55, 67, 69**), and contrary to the Claimant's assertions, these paragraphs do more than "*simply explain where the additional requirement of 505 dwellings comes from*" (SFG§50): they provide some strategic direction as to how the additional requirements should be considered in LPP2 (as is explained above). [Core / 287 and 288] [Core / 274]
- (3) **Third**, the Inspector did not, as the Claimant alleges (SFG§53-55), err by placing significance on the fact that "*nowhere else is singled out in Mendip for comment, in either the IR or LPP1 in relation to where the 505 additional dwellings requirement should be allocated*" [**IR70**]. As the Inspector had already explained [**IR56-63**], the towns of Radstock and Midsomer Norton were singled out for comment in LPP1 and by the LPP1 Inspector because they had not been considered for allocations as part of the LPP1 process. It was therefore open to the LPP2 Inspector to conclude – in agreement with the LPP1 Inspector – "*that it is necessary in the interests of soundness, to consider whether a case can be made to include housing allocations in [LPP2] which focus primarily on these towns on the fringe of the District*" [**IR61**].
- (4) **Fourth**, the Claimant's 'further alternative' submission (SFG§56) is hopeless. The "*strategic direction*" established in LPP1 that the Defendant Council would, as part of LPP2, "*consider making specific allocations in this area to meet the development needs of Mendip*" [**IR69**] was not restricted to the towns of Radstock and Midsomer Norton. Para 4.21 of LPP1 provides that allocations in LPP2 to meet the additional 505 requirement "*may include land in the north/north-east of the District primarily adjacent to the towns of Radstock and Midsomer Norton*" (Core/327, emphasis added). [Core / 279]

Ground 2: Failure to consider reasonable alternatives to allocating 505 dwellings in the north-east of the District

20. An environmental report is required to identify, describe and evaluate the likely significant effects on the environment of implementing a plan, and reasonable alternatives: Article 5(1) of the SEA Directive¹⁰ and Regulation 12(2) of the SEA Regulations.¹¹
21. The reasonable alternatives are to be identified “taking into account the objectives and the geographical scope of the plan or programme”: Article 5(1) and Regulation 12(2).
22. It is for the plan-making body to identify those reasonable alternatives. This was confirmed in *R (Friends of the Earth) v Welsh Ministers* [2015] EWHC 776 (Admin) by Hickinbottom J at [88]:

“...

iv) “Reasonable alternatives” does not include all possible alternatives: the use of the word “reasonable” clearly and necessarily imports an evaluative judgment as to which alternatives should be included. That evaluation is a matter primarily for the decision-making authority, subject to challenge only on conventional public law grounds.

v) Article 5(1) refers to “reasonable alternatives taking into account the objectives... of the plan or programme...”. “Reasonableness” in this context is informed by the objectives sought to be achieved. An option which does not achieve the objectives, even if it can properly be called an “alternative” to the preferred plan, is not a “reasonable alternative”. An option which will, or sensibly may, achieve the objectives is a “reasonable alternative”. The SEA Directive admits to the possibility of there being no such alternatives in a particular case: if only one option is assessed as meeting the objectives, there will be no “reasonable alternatives” to it.”

23. The courts, including at the highest level, have repeatedly held that the applicable standard of review in respect of challenges to the adequacy of environmental reports is the ‘Wednesbury’ standard. This principle was recently reiterated by Lindblom LJ in *Finch v Surrey County Council* [2022] EWCA Civ 187 at [15].¹²

¹⁰ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment

¹¹ Environmental Assessment of Plans and Programmes Regulations 2004

¹² Although *Finch* concerned the EIA regime and the requirements of environmental statements, it drew upon case-law concerning the SEA Directive and Regulations, e.g. *Friends of the Earth*. The intensity of review is the same in EIA cases as SEA cases: see *R. (on the application of Plan B Earth) v Secretary of State for Transport* [2020] EWCA Civ 214 at [141]-[144]

“(7) Establishing what information should be included in an environmental statement, and whether that information is adequate, is for the relevant planning authority, subject to the court's jurisdiction on conventional public law grounds (see the judgment of Sullivan J. in R. (on the application of Blewett) v Derbyshire County Council [2003] EWHC 2775 (Admin); [2004] Env LR 29, at paragraphs 32, 33 and 41). The applicable standard of review has consistently been held to be the "Wednesbury" standard (see the judgment of the Supreme Court in R. (on the application of Friends of the Earth Ltd.) v Heathrow Airport Ltd. [2020] UKSC 52; [2021] PTSR 190, at paragraphs 142 to 145; the judgment of the Court of Appeal in R. (on the application of Plan B Earth) v Secretary of State for Transport [2020] EWCA Civ 214; [2020] PTSR 1446, at paragraphs 136 to 144; the judgment of Coulson L.J. in Gathercole v Suffolk County Council [2020] EWCA Civ 1179; [2021] PTSR 359, at paragraphs 53 to 55; the judgment of Laws L.J. in Bowen-West, at paragraphs 27 to 46; and the judgment of Lang J. in R. (on the application of Friends of the Earth) v North Yorkshire County Council [2016] EWHC 3303 (Admin); [2017] Env LR 22 – otherwise known as Frack Free Ryedale – at paragraphs 21 to 23).…”

24. The Claimant's grounds fail at the first hurdle. They do not begin to attempt to challenge the Defendant's Sustainability Assessment ('SA') on *Wednesbury* grounds. For this reason alone Ground 2 should be dismissed.
25. In any event, there is no proper basis to contend that the Defendant acted irrationally when making the evaluative judgement as to which alternatives were reasonable.
26. For the reasons set out above, the Inspector concluded that it was appropriate for LPP2 to meet the additional requirement for 505 dwellings from LPP1 in the north-east of the District, primarily around Radstock and Midsomer Norton, and that modifications to the submitted plan to this effect were required for reasons of soundness.¹³
27. In light of the Inspector's conclusions, it was open to the Defendant – and certainly not irrational of them – when undertaking the Second Addendum SA to focus on alternative approaches to meeting the additional requirement *within* the north-east of the District.
28. The Claimant is wrong to contend, as it does in its Reply (CR§10), that the Defendant gave no consideration whatsoever to whether there were any reasonable alternatives to allocating the additional 505 dwellings in the north-east of the District. To the contrary, as part of the 505 Background Paper [Supp/227-245] the Council considered and rejected as inappropriate alternatives to the further allocation, including a criteria-based policy and the deferral of the allocations to the next Local Plan review [Supp/232].

[Supp / 347 to 365]

[Supp / 352]

[Core / 236 to 237]

[Core / 234]

¹³ He originally expressed this view in the Interim Note, para 16-20 (ED20) [Core/241-242], albeit stressing that he had reached no final conclusions at that time (see para 2 [Core/239]). As noted above, this remained the case in his final report following the specific hearing sessions held on this subject.

29. The Claimant is also wrong to suggest, again as it does in its Reply (CR§12), that the Secretary of State was speculating in its Summary Grounds as to the Defendant's reasons for not assessing alternatives outside of the north-east of the District. The Defendant provided its reasons in response to the Inspector's Matters and Issues, Question (v) '*Is there a justified and sustainable case for spreading the allocation for additional 505 dwellings out across the entire District?*', as follows:

"12 A district wide approach was taken to identifying allocations in the submission plan

13 The Council do not consider a fresh district-wide site allocations exercise addresses the concerns over soundness raised in the Interim Note. This is reflected in the approach taken by the Council set out in the 505 background paper.

14 The Council also considers that a wide area of search is neither appropriate nor proportional given the pressing commitment to update LPP1." [Supp/38]

[Supp / 158]

30. As was stated in the Secretary of State's summary grounds¹⁴, it was reasonable for the Defendant to conclude that alternatives outwith the north-east of the District would not have achieved the objective which the Inspector considered that LPP2 ought to include (an objective ultimately included within the adopted version of LPP2¹⁵). This is not speculation; it was the Defendant's stated position.

31. Furthermore, in the Second Addendum SA¹⁶ the Defendant actively considered and assessed the impacts of reasonable alternatives – in terms of different site allocations – in order to meet the proposed objective of providing 505 dwellings in the north-east of the District, primarily around Radstock and Midsomer Norton.

32. Accordingly, this was not a case where the Defendant ignored or overlooked the need to consider reasonable alternatives. The Defendant explained the basis for rejecting as unreasonable a number of potential alternative approaches, including making further allocations outside of the north-east of the District. It then assessed the impacts of those alternatives which it did consider to be reasonable.

33. In truth, this ground boils down to little more than a complaint that the Defendant failed to treat, as a reasonable alternative, the allocation of sites outside of the north-east of the District to meet the additional 505 requirement. This constitutes an impermissible attack on the Defendant's judgment as to which alternatives were reasonable. Accordingly, the

¹⁴ IP1's Summary Grounds§25

¹⁵ LLP2, paras 3.21-3.24 CB/59

¹⁶ SB/150-165

Claimant's reliance on Holgate J's observations in *Flaxby Park Ltd v Harrogate BC* [2020] EWHC 3204 at [129] (SFG§43) is entirely misplaced.

34. In any event, even if the court were to conclude that there was a technical deficiency in the Defendant's sustainability appraisal (which is not accepted), it would be entirely without import. The very matter which the Claimant complains was not assessed by the Council – the potential for allocating sites outside of the north-east of the District – was specifically considered¹⁷ as part of a 'full debate' (see **IR54**) on the additional 505 dwelling requirement during the hearing sessions. The Claimant made representations on this issue as part of its hearing statement [**Supp/93-104**], and took part in the hearing sessions on this topic. These matters were fully considered by the Inspector, who gave detailed reasons for approving, as sound, the allocations in the north-east of the district. As such, it cannot be said that the Claimant has been substantially prejudiced by any alleged error in the sustainability appraisal. [Supp / 213 to 224]

Ground 3: Failure to have regard to Policy CP2.2(c) and the requirement for proportionate development in rural settlements and/or provide adequate reasons to explain how this had been taken into account.

35. The Inspector was undoubtedly aware of, and took into account, Policy CP2 of LPP1. He made repeated references to this policy in his final report (see **IR27, 28, 45, 46, 53, 55, 90, 91, 93, 106, 166**).
36. The Claimant, therefore, faces the uphill task of persuading the court that, although he had specific and repeated regard to Policy CP2, the Inspector somehow overlooked the 'principle of proportionate growth in rural settlements' set out within that policy (at CP2.2(c)).
37. There is no proper basis for drawing this inference. To the contrary, it is quite clear that the Inspector had the principle of proportionate growth in mind throughout his assessment.
38. **First**, he addressed the matter in his Interim Note (ED20). The principle of proportionate growth in Primary and Secondary Villages was described in paragraph 3.37 of the pre-submission version of LPP2, with paragraph 3.38 indicating that no site allocations would

¹⁷ See Question (v) of Matters, Issues and Questions (ED30) [**Supp/15**]

be made in villages which had already fulfilled the housing requirements in LPP1 [Core/262].

[Supp / 17]

39. In his Interim Note, the Inspector expressed his concern that, as drafted in the pre-submission Plan, this approach was not sound, stating that:

"22. It is essential, however, that the Council does not place arbitrary caps on development, which would be contrary to the aim of national policy to "boost significantly the supply of housing"...the fact that a specific area has reached its housing target as set out in LPP1 should not, of itself, be a reason for placing a cap on future development within the plan period. A MM to paragraph 3.38 is therefore required to ensure the Plan accords with national policy in this regard." [Core/242]

[Core / 237]

40. For the same reason he considered it necessary to modify the housing allocations in LPP2 – including allocations in Primary and Secondary Villages – so that they were expressed as a minimum, not a cap [Core/242].

[Core / 237]

41. It follows that the Inspector was plainly cognisant of, and engaged with, the 'principle of proportionate growth', but concluded that, in order for LPP2 to be sound, modifications were necessary so that it did not result in the artificial capping of growth.

42. All of the housing requirements set out in Policy CP2 of LPP1 – including the village requirements – were expressed as a minimum, not a cap.¹⁸ Thus the Inspector's reference to the need to avoid arbitrary caps in LPP2 was entirely consistent with Policy CP2. It does not provide any support for the Claimant's contention (CR§16-20), that the Inspector failed to have regard to the requirements of Policy CP2.2(c).

43. **Second**, the Inspector made the similar observations in his final report (see **IR50 -51**), with **MM5** [Core/166] resulting in an amendment to that part of the supporting text of LPP2 that was concerned directly with the principle of proportionate growth in Primary and Secondary Villages (see paras 3.27-3.28 [Core/59]).

[Supp / 64]

[Core / 130]

44. **Third**, in **IR94** the Inspector concluded in terms that *"The planned housing growth for Shepton Mallet, Wells and the Primary and Secondary Villages are proportionate and consistent with LPP1..."*. Although the Claimant is correct to state (SFG§82) that this paragraph is concerned with distribution of housing outside the north-east of the District, this is

¹⁸ CP2.1, in which the requirements for Primary, Secondary and other villages is set out, states that *"provision for a minimum of 9,365 additional dwellings will be made in line with the table below over the plan period"* [Core/635]. See also, para 4.22 [Core/327] which stressed that the *"requirements in Core Policy 2 will be treated as minima to be achieved over the plan period"* (para 4.22).

[Core / 287]

[Core / 279]

nothing to the point. It demonstrates, unequivocally, that the Inspector had taken into account the ‘principle of proportionate growth in rural settlements’ in CP2.2(c).

45. In light of the above, the Claimant’s primary allegation within Ground 3 should be dismissed.

46. The Claimant’s alternative allegation is that the Inspector failed to provide adequate reasons to justify the allocations in Norton St Philip (NSP1) and Beckington (BK1) in light of the ‘principle of proportionate growth in rural settlements’ set out in CP2.2(c).

47. This allegation is also without merit.

48. The standard of reasons required of an examining Inspector is that to which Lord Brown referred in *South Bucks District Council v Porter* [2004] UKHL 33. An Inspector’s reasons will be adequate so long as they make plain how the “principal important controversial issues” were resolved, and can be “briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for decision”: *CPRE Surrey v Waverley BC* [2019] EWCA Civ 1826 at [72].

49. As a general principle “*reasons given by an Inspector on the examination of a local plan may be more succinctly expressed than in a decision letter on a planning appeal.... It will be sufficient if he conveys to a "knowledgeable audience" how he has decided the main issues before him. He may only need to set out the main parts of his assessment and the essential planning judgments he has made*”: *Keep Bourne End Green v Buckinghamshire Council* [2020] EWHC 1984 (Admin) at [83].

50. The Inspector’s reasons relating to the allocations Norton St Philip (NSP1) and Beckington (BK1) plainly met the requisite standard, noting in particular:

(1) It was the responsibility of the Defendant, and not the Inspector, to identify the sites it considered were appropriate to allocate in order to meet the additional requirement for 505 dwellings. This Inspector emphasised this division of functions in his Interim Note (ED20), para 18 [**Core/242**].

[Core / 237]

(2) The Defendant expressly took account of the ‘principle of proportionate growth in rural settlements’ when considering where to make the allocations. In the ‘505 Dwellings – Background Paper’ [**Supp/227-245**] the Defendant set out a range of considerations which it took into account when assessing the sites, one of which was the “[e]xtent of recent growth relative to housing stock

[Supp / 347 to 365]

(proportionate growth)" (para 35, [Supp/236].) The considerations were "*used to come to a judgment of whether the settlement should be considered in principle as a [sic] suitable to accommodate part of the 505 requirement*" (para 35, [Supp/236].) [Supp / 356]

- (3) The Defendant's approach was to meet the vast majority of the additional requirement on sites adjacent to Midsomer Norton, with 455 dwellings being allocated in this location.
- (4) By contrast, as the Inspector recognised, the allocations in Beckington (28 dwellings) and Norton St Philips (27 dwellings) "*comprise a modest but important component*" of the additional requirement [IR142].
- (5) Both Beckington and Norton St Philips are classified as 'Primary Villages' which, according to LPP1, are "*the first places to consider when distributing planned rural housing in the Local Plan*" (para 4.32 [Core/330]) [Core / 282]
- (6) In relation to both villages, the Defendant concluded the principle of proportionate growth represented an "*adverse justification for growth/allocation*" [Supp/248]. This appears to be on the basis that the growth in housing stock between 2006-2019 for both villages had been above 15% [Supp/249 and Supp/254]. Nevertheless, the Defendant came to a balanced judgement that it was appropriate, in principle, for these settlements to accommodate further growth, having regard to the other considerations which were in play. [Supp / 368] [Supp / 369 and 374]
- (7) The 'principle of proportionate growth in rural settlements' in CP2.2(c) is exactly that: a principle. It is not, even in policy terms, an absolute requirement. Moreover, it was the Inspector's judgement – a judgement (rightly) not challenged in these proceedings – that the housing requirements for the Primary and Secondary Villages in LPP1 should not be treated as a cap.
- (8) This much was consistent with the conclusions of the LPP1 Inspector who explained:

68.... the Council has, in Tables 8 and 9, given an indication of the levels of growth that will be acceptable in various villages. This figure, or dwelling requirement, equates to 15% of the existing housing stock in an individual village up to an upper limit of 70 dwellings in Primary Villages and 40 dwellings in Secondary Villages....

70... Certainly the 15% figure and the upper limit figures for Primary and Secondary villages have not been arrived at on any scientific basis... the Council stressed at the hearings that it was not its intention to use the housing requirements set out in Tables 8 and 9 to micromanage development in villages. In allocating sites in the Local Plan Part II Allocations document it will take a flexible approach and if, for example, the effective planning of a site would enable somewhat higher levels of development then this would not be resisted or if a particular parish wanted more development this would not be opposed." (emphasis added)[Core/370]

[Core / 322]

(9) The LPP2 Inspector was charged with assessing whether, with proposed main modifications – including the additional allocations in the Primary Villages, LPP2 was ‘sound’. In doing so he had regard to the assessments undertaken by the Defendant, including the ‘505 Dwellings – Background Paper’ [IR6].

(10) The Inspector considered the soundness of the additional allocations at the Primary Villages in his report. Having concluded that both Norton St Philip and Beckington “*have sufficient facilities to satisfactorily accommodate the quantum of housing for each site*” [IR116] he examined the proposed allocations in some detail at **IR117-138** and found them to be sound (he rejected a third proposed allocation in the settlement of Rode at **IR139-141**).

(11) His assessment must, of course, be read in the context of the economic, social and housing need justifications for meeting the additional requirement in the north-east of the District which the Inspector had articulated at **IR73-83**.

51. The Inspector was not required in his report to specifically address Policy CP2.2 and/or the principle of proportionate growth in respect of the allocations at Norton St Philip and Beckington, which appears to be the Claimant’s central complaint. It is enough that the Inspector was (plainly) aware of the relevant principle; that the Defendant had applied that principle in their assessment of which sites to allocate; that the Inspector took account of the Defendant’s assessment; and that, having done so, he found the allocations to be sound.

Ground 4: Decision to allocate NSP1 and BK1 through main modifications to LPP2 was irrational

52. Despite the Claimant’s protestations (SFG§85), this ground is clearly parasitic on the earlier grounds of challenge.

53. The alleged irrationality stems from allegations that LPP1 has not been properly construed (i.e. Ground 1) and that the requirements of CP2.2 were not properly taken into account (i.e. Ground 3). As they are misconceived, so too is this ground.
54. The only freestanding allegation in the original Statement of Facts and Grounds is that the allocation at Norton St Philip would conflict with a draft Neighbourhood Plan which had been held up due to delays caused by a legal challenge (SFG§83(e)). Even if correct, this does not provide a basis for concluding that the allocations were irrational.
55. In light of the considerations set out in paras 52-53 above, the bare allegation in the Reply (§21) that the allocation of NSP1 and BK1 was irrational on the basis that they were ‘plainly not in accordance with Policy CP2.2(c)’ is wholly unmeritorious.

IV. RELIEF

56. Should the need arise, the Secretary of State will make submissions on appropriate relief once judgment is received.

V. CONCLUSION

57. For the reasons given above, the claim should be dismissed. The Secretary of State reserves its position on costs.

ROBERT WILLIAMS

CORNERSTONE BARRISTERS

10 May 2022

IN THE HIGH COURT OF JUSTICE
CARDIFF DISTRICT REGISTRY
ADMINISTRATIVE COURT
PLANNING COURT

CO/323/2022

IN THE MATTER OF A CLAIM PURSUANT TO SECTION 113 OF THE PLANNING AND
COMPULSORY PURCHASE ACT 2004

BETWEEN

NORTON ST PHILIP PARISH COUNCIL

Claimant

- and -

MENDIP DISTRICT COUNCIL

Defendant

- and -

(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND
COMMUNITIES

(2) LOCHAILORT INVESTMENTS LIMITED

(3) REDROW HOMES LIMITED¹

Interested Parties

DETAILED GROUNDS OF RESISTANCE
ON BEHALF OF
LOCHAILORT INVESTMENTS LIMITED
AND
REDROW HOMES LIMITED

References to the Core Bundle are in the form [Core/Page number]; to the Supplementary Bundle are in the form [Supp/Page number]; and to the Claimant's Grounds are in the form [CG/Paragraph] and to the Claimant's Reply are in the form [CR/Paragraph].

INTRODUCTION

1. The Claimant seeks to challenge the Defendant's decision to adopt the *Mendip District Local Plan 2006 – 2029 Part II: Site and Policies* ("LPP2") on 20 December 2021.

¹ An application for Redrow Homes Limited to be added as an Interested Party has been filed and served. The application is yet to be determined but no party has objected to the application. This document therefore includes references to Redrow Homes Limited but should the Court refuse the application, the document will be re-filed with those references removed.

2. Lochailort Investments Limited owns a site allocated under Policy NSP1 of LPP2 for residential development in the form of a minimum of 27 dwellings [Core/89]. [Core / 160]
3. Redrow Homes Limited has an option to acquire the site allocated under Policy BK1 of LPP2 for residential development in the form of a minimum of 28 dwellings [Core/81]. [Core / 152]
4. Both Lochailort and Redrow are currently progressing applications for planning permission for residential development in accordance with the respective allocations and have also participated fully in the LPP2 process.
5. This claim is an impermissible attempt to revisit the merits of the decision to allocate NSP1, BK1 and the other allocations for residential development.
6. The factual background to the claim is outlined at paragraphs 4 – 30 of the Claimant’s Statement of Facts and Grounds and paragraphs 9 – 33 of the Defendant’s Grounds of Defence. Lochailort and Redrow are prepared to accept these accounts of the factual background, though not the commentary thereon.

RESPONSE TO GROUNDS OF CHALLENGE

Ground 1: Misinterpretation of LPP1

7. This ground of challenge blurs the issue of the interpretation of policy with the application of policy and the making of planning judgments. It makes criticisms of the LPP2 Inspector’s approach which are without merit.
8. LPP1 did not, as a matter of interpretation, identify where the further 505 dwellings must be allocated. Contrary to the Claimant’s contentions, the LPP2 Inspector did not interpret it as doing so. This was left, as a matter of planning judgment, to the LPP2 to determine.

9. The LPP2 Inspector exercised that judgment and reached the conclusion at IR84 [Core/135] that: [Core / 206]

“There is, therefore, a robust case, both in relation to the IR and LPP1, and supported by the economic, social and housing needs evidence set out above, that it is appropriate and sustainable for an additional 505 dwellings to be allocated within the north-east part of the District, primarily centred on the towns of Radstock/Midsomer Norton. This view is supported by the recent work undertaken by the Council in its 505 Dwelling Paper and its addendums to the SA and HRA. I therefore conclude that the decision to allocate 505 dwellings in the north-east of the District is justified, sound and consistent with the aims and objectives of LPP1.”
10. At IR58 [Core/132] the LPP2 Inspector directly faces up to the issue of whether the 505 additional units should be allocated in a particular geographical area of the Plan. He does not purport to find a direct answer to this question in LPP1 or the LPP1 Report. That he approached this matter with an open mind is reinforced by the broad nature of matters 1(i)-(v) in his Discussion Note ED30 [Supp/15]. [Core / 203] [Supp / 59]
11. Instead, having considered the LPP1 Report, at IR63 [Core/132] he observes that: “the LPP1 Inspector’s view was that this Plan should clearly consider the possibility of allocating housing sites on the edge of the towns of Midsomer Norton and Radstock” (emphasis added). He made the point that this had not initially been done by the Council in preparing the LPP2. [Core / 203]
12. At IR71 [Core/134], having considered LPP1, he again reaches the interim conclusion that: “the strategic direction in LPP1 requires the Council to consider development allocations to meet the needs in the north-east of the District” (emphasis added). Again, this is not a conclusion (as the Claimant contends at CR/5) that the 505 dwellings must, as a matter of interpretation of LPP1, be located in the north-east of the District. Instead, he examines the “genesis of the LPP1 requirement” to inform his planning judgment as to where the 505 dwellings should be allocated. [Core / 205]
13. At IR72 [Core/134] the LPP2 Inspector reaches the planning judgment that the Council has provided “robust and convincing justification” for the view that “the 505 dwellings should be allocated in the north / north-east part of the District.” [Core / 205]

Importantly, in IR73-84 he then considers the economic, social and housing needs

evidence to justify the allocation of 505 dwellings in the north-east of the District. That evidence includes consideration of functional links between that part of the District and Bath and Bristol; affordability evidence pointing to that part of the District being the least affordable; and the relatively few allocations in that part of the District, before the 505 dwellings, considered against a significant need. These planning judgments are, rightly, not challenged by the Claimant – see CR/5.

14. At CG/56 the Claimant contends that the LPP2 Inspector erred in treating LPP1 as including a general requirement for consideration to be given to additional allocations in the north-east of the District, as opposed to limiting this to land abutting or adjacent to the towns of Radstock and Midsomer Norton. However, at IR87-88 [Core/136-7] the LPP2 Inspector considered how to define the north/north-east of Mendip District. He notes that “LPP1 does not define the precise area of the north-east part of the district, except by stating that it includes land adjacent to the towns of Midsomer Norton and Radstock”. He therefore does not read LPP1 as the Claimant contends. The definition of the north/north-east of the District stems from the Council’s 505 Dwelling Paper as the LPP2 Inspector records at IR88 [Core/137]. He finds, as a matter of planning judgment, that “it is not unreasonable to include other settlements in the north-east of the District” and that “the Council’s definition is appropriate and fit for purpose.” [Core / 207 to 208]
15. The supporting text of LPP2 at 11.2.2 and 11.20.3, which the Claimant contends reflects a misinterpretation of LPP1, should be read in the context of the LPP2 Inspector’s detailed discussion of the relevant issues in the IR referred to at §9-13 above. When this is done, it is readily apparent that the Claimant’s reliance on these paragraphs, and in particular the Claimant’s criticism of the use of the word “requirement” (see CG/45 and CR/4a.), amounts to the sort of overly legalistic nit-picking which has been repeatedly deprecated by the courts. [Core / 208]
16. The Claimant’s attempt to characterise the LPP2 Inspector’s analysis as an exercise of interpretation of LPP1 is unsustainable:
- a. **First**, in so far as the LPP2 Inspector sought to interpret LPP1, he did not reach the view that the 505 dwellings must be located in the north-east of the District on the basis of either LPP1 or the LPP1 Report. Only that those documents

indicated that the LPP2 should “consider” [IR63 and IR71] allocations in the north-east.

- b. **Secondly**, in considering where the 505 dwellings should be located, the LPP2 Inspector was free to consider the strategic expectations of LPP1 and the LPP1 Report. This was not an exercise of seeking to interpret the policies of LPP1, as to which see a. above, but considering those documents so as to inform his planning judgment as to where the further 505 dwellings should be allocated. The Claimant’s extreme assertion (see CG/46) that he was not entitled to have regard to LPP1 Report in carrying out this exercise in seeking to inform LPP2 demonstrates the overly legalistic approach it has adopted and that it has mischaracterised what the LPP2 Inspector was doing.
- c. **Thirdly**, the LPP2 Inspector reached a planning judgment that there was a “robust case” for the additional 505 dwellings to be allocated within the north-east Part of the District. This planning judgment recognised the expectations of the LPP1 and LPP1 Report that allocations in the north-east would be considered but reached the overall conclusion by considering at length at IR 73-84 the “economic, social and housing needs evidence” which supported the allocations.
- d. **Fourthly**, at IR 95 [Core/138] he was satisfied that the overall distribution of [Core / 209] housing in LPP2 is sound and in accordance with LPP1. He was entitled to conclude, as a matter of planning judgment, that the overall distribution of housing accorded with LPP1. That the broad spatial strategy of LPP1 could have led to a different distribution of housing does not mean that his analysis was flawed.

Ground 2: Failure to consider reasonable alternatives to allocating additional 505 dwellings in the north east of the District

- 17. A useful summary of the law in relation to Strategic Environmental Assessment, the identification of reasonable alternatives and to challenges of this nature is found at [76] – [87] of the judgment of Lieven J in *Aireborough Neighbourhood Development Forum v Leeds City Council* [2020] EWHC 1461 (Admin). See also *Flaxby Park Limited v Harrogate Borough Council* [2020] EWHC 3204 (Admin) at [124] – [139] per Holgate J.

18. Section 19(5) of the Planning and Compulsory Purchase Act 2004 requires a local planning authority to carry out an appraisal of the sustainability of the proposals in a development plan document.
19. Regulation 5 of the Environmental Assessment of Plans and Programmes Regulations 2004 ('SEA Regulations') requires there to be an environmental assessment during the preparation of a plan and before its adoption. Regulation 8 provides that a plan is not to be adopted until account has been taken of the sustainability appraisal and consultation responses. The contents of an environmental report and the process for undertaking the appraisal are set out in Part 3 of the SEA Regulations.
20. Regulation 12(2) requires the environmental report to identify, describe and evaluate the likely significant effects on the environment of implementing the plan or programme and "reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme". In *Spurrier v Secretary of State for Transport* [2019] JPL 1163 it was held at [332] that "the requirement to address "reasonable alternatives" is intended to facilitate the consultation process...the outputs from that exercise are simply taken into account in the final decision-making on the adoption of a plan, but the SEA Directive does not mandate that those outputs determine the outcome of that process."
21. Regulation 12(3) provides that a report shall include such information referred to in Schedule 2 to the SEA Regulations as may reasonably be required. Paragraph 8 of Schedule 2 requires "an outline" to be given of "the reasons for selecting the alternatives dealt with".
22. In *R (Friends of the Earth) v. Forest of Dean D.C.* [2015] P.T.S.R. 1460, Hickinbottom J (as he then was) held at 40 that:
- "(v) Article 5(1)² refers to "reasonable alternatives taking into account the objectives... of the plan or programme..." (emphasis added). "Reasonableness" in this context is informed by the objectives sought to be achieved. An option

²Of the SEA Directive, 2001/42/EC, transposed into domestic law by regulation 12(2) of the SEA Regulations.

which does not achieve the objectives, even if it can properly be called an "alternative" to the preferred plan, is not a "reasonable alternative". An option which will, or sensibly may, achieve the objectives is a "reasonable alternative". The SEA Directive admits to the possibility of there being no such alternatives in a particular case: if only one option is assessed as meeting the objectives, there will be no "reasonable alternatives" to it.

(vi) The question of whether an option will achieve the objectives is also essentially a matter for the evaluative judgment of the authority, subject of course to challenge on conventional public law grounds. If the authority rationally determines that a particular option will not meet the objectives, that option is not a reasonable alternative and it does not have to be included in the SEA Report or process."

23. In *Spurrier*, the Divisional Court reviewed the approach the Court should take where there are alleged deficiencies in an environmental report:

"433. The information in article 5(1) and Annex I which is to be included in an environmental report is that which "may reasonably be required" (article 5(2)). That connotes a judgment on the part of the authority responsible for preparing the plan or programme. Such a judgment is a matter for the evaluative assessment of the authority subject only to review on normal public law principles, including *Wednesbury* unreasonableness.

434. Where an authority fails to give any consideration at all to a matter which it is explicitly required by the SEA Directive to address, such as whether there are reasonable alternatives to the proposed policy, the court may conclude that there has been non-compliance with the Directive. Otherwise, decisions on the inclusion or non-inclusion in the environmental report of information on a particular subject, or the nature or level of detail of that information, or the nature or extent of the analysis carried out, are matters of judgment for the plan-making authority. Where a legal challenge relates to issues of this kind, there is an analogy with judicial review of compliance with a decision-maker's obligation to take reasonable steps to obtain information relevant to his decision, or of his omission to take into account a consideration which is legally relevant but one which he is not required (e.g. by legislation) to take into account (*Secretary of State for Education and Science v Tameside Metropolitan Borough Council* [1977] AC 1014 at page 1065B; *CREEDNZ Inc v Governor-General* [1981] NZLR 172 ; *In re Findlay* [1985] AC 318 at page 334; *R (Hurst) v HM Coroner for Northern District London* [2007] UKHL 13; [2007] AC 189 at [57]). The established principle is that the decision-maker's judgment in such circumstances can only be challenged on the grounds of irrationality (see also *R (Khatun) v Newham London Borough Council* [2004] EWCA Civ 55; [2005] QB 37 at [35]; *R (France) v Royal London Borough of Kensington and Chelsea* [2017] EWCA Civ 429; [2017] 1 WLR 3206 at [103]; and *Flintshire County*

Council v Jeyes [2018] EWCA Civ 1089; [2018] ELR 416 at [14]). The "Blewett approach" is simply an application of this public law principle.

435. As we have described (in paragraphs 147 and following above), where a legal challenge of the kind described in the preceding paragraph is brought, the question whether the decision-maker has acted irrationally, be they a local planning authority or a Minister, demands the intensity of review appropriate for those particular circumstances."

24. As Lieven J observed at [86] of *Airborough*, "the Court will be slow to interfere with questions of the nature of what is a "reasonable" alternative having regard to the plan's objectives."

25. In *Compton Parish Council & others v Guildford Borough Council & others* [2019] EWHC 3242 (Admin) Ouseley J considered the approach to updating a sustainability appraisal. At 110 he explained:

"There is no specific provision dealing with when an updated SA is required, or when material changes of circumstances require an update. The question will always be whether the likely significant effects on the environment of the adopted Plan had been evaluated, and whether reasonable alternatives have been evaluated. Whether the work done is sufficient is for the reasonable judgment of the decision-maker, here Guildford BC; that judgment is reviewable on normal public law grounds, and indeed was also assessed by the Inspector."

26. Even where a breach of the regulations is identified, the Court retains a discretion to refuse relief if the applicant has in practice been able to exercise the rights conferred and there has been no substantial prejudice – see *Airborough* at [87].

27. Here, the Council carried out the Sustainability Appraisal for the LPP2 in four separate stages over five years³. It was an iterative process and informed the development of the plan⁴ and the approach it took was entirely rational and the challenge is without merit.

28. On 10 September 2019, following the first two weeks of examination hearings, the LPP2 Inspector issued an interim note containing post hearing advice (ED20), albeit

³ See [Supp/116].

⁴ See [Supp/152].

[Supp / 236]

[Supp / 272]

noting at paragraph 2 that he had reached no final conclusions [Core/239-249]. He identified, at paragraph 16, that the draft plan had failed to address the housing needs of the north-eastern part of the District, including land adjacent to the towns of Radstock and Midsomer Norton. At paragraph 17, he noted the need to consider allocations for development in this part of the plan area and gave a preliminary direction⁵ that an additional 505 dwellings should be apportioned to sustainable settlements in the north-east part of the district. At paragraph 19 the LPP2 Inspector noted the need for further SA work in respect of the additional allocations. This is reflected in the Inspector's Draft Schedule of Main Modification at MM5:

[Core / 234 to 244]

"Allocation of 505 additional dwellings (with reference to the table in core policy CP2 and para 4.21 of the supporting text) in the north-east of the District, at sites adjacent to Midsomer Norton and Radstock, and on sustainable sites at primary and secondary villages within this part of the District. All the sites considered for possible allocations, including those identifies in Note IQ-3, will be subject to Sustainability Appraisal."

29. It was in this context that the Council undertook the Second Addendum to the Sustainability Appraisal [Supp/150-226] in January 2020. In accordance with the direction of the LPP2 Inspector, it was rational that the focus of this work was on meeting the housing needs of the north-eastern part of the District. It was rational for the Council to seek land in the north east of the district to meet those needs and rational for the Council to limit consideration of alternatives, at this stage of the SA work, to those sites which met this locational specification. The 505 Dwellings Background Paper [Supp/227-272] identifies that as well as sites around Midsomer Norton and Radstock, the area of search included all primary and secondary villages in the northeast quadrant of Mendip [Supp/235]. In addition to this, the Council considered and rejected alternatives to MM5, including a criteria based policy and deferral of further allocations to the next plan review [Supp/232].

[Supp / 270 to 346]

[Supp / 347 to 392]

[Supp / 355]

[Supp / 352]

30. The Claimant is therefore wrong to contend at CG/62 that: "No consideration whatsoever was given in the SA as to whether there were any reasonable alternatives to allocating these additional dwellings within this part of the District in the first

⁵ At paragraph 61 of the Claimant's grounds, the Claimant recognises that this was the direction of the Inspector.

place.” Reasonable alternatives were considered and rejected. The Claimant’s efforts to frame this as a case where no reasonable alternatives were considered is plainly misguided. Instead, this ground of challenge is about the selection of and assessment of the reasonable alternatives which were considered, which was entirely a matter for the Council, subject to the question of irrationality.

31. It seems that the Claimant’s real contention is not that reasonable alternatives were not considered at all (and if that is the Claimant’s contention, it is plainly wrong), but that the alternative of making additional allocations across the whole District was not considered. However, that is without merit for the reasons given above. There was no requirement to consider allocations across the whole District and in any event the ambit of consideration required to be given was primarily a matter for the Council and their approach was a matter of judgement for it to consider. See further paragraph 36 below.

32. Moreover, six days of hearing sessions were held in December 2020 which were dedicated to consideration of the Council’s response to MM5. In ED30, **[Supp/15]** **[Supp / 59]** the Inspector set out the matters to be considered during those sessions. Matter 1 concerned the overall housing provision for Mendip. This included at (v):

“Is there a justified and sustainable case for spreading the allocation for the additional 505 dwellings out across the district?”

Matter 2 concerned the Sustainability Appraisal, including the treatment of realistic alternatives.

33. The Claimant, along with many others, made submissions to the Inspector on these issues. Some such representations have been provided at **[Supp/17-122]**. The issues **[Supp / 137 to 242]** were then “debated fully”⁶ at the examination hearings. In response to Matter 1(v) the Council’s Hearing Statement explained its reasons for not undertaking a fresh district-wide site allocation:

“12 A district wide approach was taken to identifying allocations in the submission plan

⁶ See IR54 **[Core/131]**.

[Core / 202]

13 The Council do no consider a fresh district-wide site allocation exercise addresses the concerns over soundness raised in the Interim Note. This is reflected in the approach taken by the Council set out in the 505 background paper.

14 The Council also considers that a wide area of seach is neither appropriate nor proportional given the pressing commitment to update LPP1.” **[Supp/38]** **[Supp / 158]**

34. The LPP2 Inspector considered the SA undertaken by the Council at IR37- 44 **[Core 128-9]**. At IR39 he found that the process had been iterative and influential from the start of the plan-making process. At IR40 – 41 the Inspector considers the additional SA undertaken in response to ED20. He notes that this considered the sustainability of all the additional sites proposed for development and concludes that the preferred option sites are sustainable. At IR41 the Inspector notes the Council’s 505 Dwellings Background Paper which explains that realistic alternative sites were also considered around Midsomer Norton and Radstock, as well as assessing the suitability of villages within the north-east of the District, based on a set of criteria covering the key elements of sustainability. At IR44 he concluded that the SA used best practice methodology and had provided effective input into the preparation of LPP2. **[Core / 199 to 200]**
35. As the SA Adoption Statement, having referred to the LPP2 Inspector’s advice and direction by the LPP2 Inspector to seek allocations for a further 505 dwellings in the north/north east of the District, explains:

“In accordance with the locational directions set out within LPP2 [sic] Core Policy CP2 and the supporting text, land to accommodate 505 dwellings was sought in the north east of the district including sites adjacent to Midsomer Norton and Radstock. The SA undertaken was consequently a site assessment process. The alternatives were the individual sites promoted at the settlements that support delivery of the spatial strategy. In accordance with the approach taken at other settlements in pursuit of Option 2, all sustainable sites that met the locational specification were proposed for allocation.

Full details of the consideration of alternative approaches is set out in the 505 Dwelling Background Paper and the Second Addendum to the Sustainability Appraisal.”

[Supp/120]

[Supp / 240]

36. The Council rationally exercised its judgment in approaching the Second Addendum to the SA as it did. It was not irrational for the Council to focus its search on sites in

the north-east of the district to meet the housing needs of the north-east of the district. It did not need to start again with the SA work and was entitled to undertake the work in the iterative way it did and to respond in a targeted manner to the shortcomings as identified by the LPP2 Inspector in the Interim Note.

37. Thereafter, the LPP2 Inspector conducted a thorough review of all matters relating to the proposed allocations in the north-east of the district. Six days of examination hearings were dedicated to the issue. Even were the Court to find that the Council erred in law in its approach to the selection of reasonable alternatives, the very matter which it is said should have been considered in the SA was in fact the subject of specific and detailed consideration by the LPP2 Inspector with representations on that very issue being made by the Claimant and many others. As such, it cannot possibly be said that the Claimant has been prejudiced, let alone substantially prejudiced, by any alleged error. The very matter which the Claimant complains was an error of law for the Sustainability Appraisal not to consider as a reasonable alternative was expressly considered by the LPP2 Inspector thereafter with the Claimant given ample opportunity to make submissions on the issue, which it duly did, and which were then carefully considered by the LPP2 Inspector.

Ground 3: Failure to have regard to CP2.2(c) and the requirement for proportionate development in rural settlements and/or provide adequate reasons to explain how this has been taken into account

38. There can be no sensible suggestion that the LPP2 Inspector was unaware of the references in LPP1 to proportionate levels of growth, or the 15% growth figure for primary villages, or that growth in Norton St Philip and Beckington had exceeded that figure. Nor did he need expressly to refer to CP2.2(c). These matters were plainly taken into account in reaching the planning judgment that the allocation of NSP1 and BK1 were necessary and sustainable.
39. The LPP2 Inspector directly considered the issue of proportionate growth in rural settlements. Paragraph 3.37 and 3.38 of the pre-submission version of LPP2 [Core/262] [Supp / 17] read:

“Primary and Secondary Villages

3.37 An important part of the spatial strategy is that there should be a proportionate approach to growth in the designated Primary and Secondary villages. However, a number of villages have seen significant additional development built or granted permission. This reflects the impact of a period where the Council was not able to demonstrate a five-year housing land supply.

3.38 The approach of this Plan is that further growth in these villages through planned site allocations does not reflect the adopted spatial strategy. The proposed site allocations reflect this principle by not identifying allocations in villages which have already fulfilled the requirements set out in Local Plan.

40. The LPP2 Inspector commented on these paragraphs at paragraph 21 and 22 of ED20

[Core/242]:

[Core / 237]

“21. Other areas/ caps on development: The identification of Primary and Secondary Villages, which have a number of necessary community facilities to take a proportion of the District’s growth, accords with the LPP1 strategy and is therefore supported.

22. It is essential, however, that the Council does not place arbitrary caps on development, which would be contrary to the aim of national policy to “*boost significantly the supply of housing*” [Paragraph 47 of *the Framework*] Clearly, in some areas, Green Belt, landscape designations, flood risk and other infrastructure constraints will limit future housing growth to zero or close to zero. However, the fact that a specific area has reached its housing target as set out in LPP1 should not, of itself, be a reason for placing a cap on future development within the plan period. A MM to paragraph 3.38 is therefore required to ensure the Plan accords with national policy in this regard.”

[Core/242]

[Core / 237]

41. The MM proposed was as follows:

“MM4 Add the following sentence to para 3.38: “However, small residential development schemes on sustainably located sites within all Primary and Secondary Villages, will in principle be acceptable, subject to environmental and infrastructure considerations and impact on the living conditions of neighbouring residential occupiers.” [Core/ 248]

[Core / 243]

42. The LPP2 Inspector returns to this issue in the LPP2 Report where at IR51 [Core/131] [Core / 202] where he explains:

“51. MM5⁷ is necessary to ensure that small residential schemes on sustainably located sites within Primary and Secondary Villages will, in principle be acceptable, subject to environmental, infrastructure and living conditions (amenity) considerations. This will avoid the negative and artificial capping of new development once a total for a settlement has been exceeded, a practice which runs counter to national policy. It would enable a modest measure of organic growth within many settlements over the plan period. This will ensure the Plan is positively prepared and accords with national policy.” **[Core/131]** **[Core / 202]**

43. This modification is reflected in the adopted version of LPP2 at paragraphs 3.27 and 3.28 of the supporting text **[Core/59]**. **[Core / 130]**

44. The LPP2 Inspector therefore addressed the issue of artificial capping of new development once a level of growth had been exceeded in a particular settlement. The Council’s 505 Dwellings - Background Paper⁸ provided that the growth figures for Norton St Philip and Beckington had been exceeded. However, the LPP2 Inspector was satisfied at IR116 **[Core/141]** that both settlements have sufficient facilities and services to satisfactorily accommodate the quantum of housing proposed. Detailed consideration is then given to each allocation in IR117 – 138 **[Core/141-145]** with the conclusion reached that each allocation is necessary and sustainable. **[Core / 212]**
[Core / 212 to 216]

45. These conclusions should also be read in the context of the LPP2 Inspector’s preceding analysis as to the economic, social and housing need evidence at IR73 – 86 which indicated a need for the allocations. First, at IR75 he identifies the significant functional links between the north-east of Mendip, including specifically the village of Norton St Philip, and the cities of Bath and Bristol. Secondly, he recognises that the housing affordability evidence, including again by specific reference to Norton St Philip at IR77, indicates that the north-east of the district is the least affordable part of the district. Thirdly, despite the significant levels of need, there are relatively few allocations in that part of the District. Fourthly, the sustainability considerations support the additional housing allocations.

46. Finally, the LPP2 Inspector responds to the criticism of over provision at IR86. He recognises this issue but finds the further provision to be appropriate. The allocations

⁷ Because of additional modifications this becomes MM5 – see **[Core/166]**.

⁸ See **Supp/249, 254 and 264**.

[Supp / 64]
[Supp / 369,
374 and 384]

provide flexibility for the plan in the event other allocations are delayed; give the plan a measure of future proofing against the increased housing need figure set by the standard method; support the government's objective of significantly boosting housing land supply; and help to address affordability issues in the District. In the LPP2 Inspector's judgment, the allocations can be implemented sustainably and without impacting harmfully on the localities where the new allocations are proposed.

47. This was a classic exercise of planning judgment and involved no error of law.

Ground 4: Decision to allocated NSP1 and BK1 through main modifications to LPP2 was irrational

48. Notwithstanding the Claimant's assertion to the contrary at CG/85, ground 4 is, in reality, parasitic on the other grounds of challenge and raises no freestanding issues and is in any event also without merit.

49. CG/83(a) concerns the same issue as ground 1. CG/83(b) and (c) concern the same issues as ground 3. CG/83(d) concerns the same issue as ground 2.

50. CG/83(e) makes passing reference to the draft Norton St Philip Neighbourhood Plan but provides no freestanding ground of challenge. The LPP2 Inspector and the Council were both plainly aware of the draft Neighbourhood Plan, indeed it is expressly referenced at 11.20.2⁹ of LPP2 and was the subject of evidence at the examination hearings. The fact that that draft neighbourhood plan did not allocate NSP1, did not prevent LPP2 from doing so.

51. The allocations were, as noted above, fully considered and justified in the IR and made as a result of the exercise of the Inspector's planning judgment.

⁹ Core/87.

RELIEF

52. Lochailort and Redrow's primary contention is that none of the grounds of challenge are made out and there was no error of law in the decision under challenge.
53. In the event that the Court does identify an error of law, Lochailort and Redrow reserve their position as to whether any such error of law should lead to the granting of any relief whether in the form of a quashing order or an order of remittal – see s.113(7) of the Planning and Compulsory Purchase Act 2004.
54. The issue of relief was considered by Lieven J in *Airborough NDF v Leeds City Council* [2020] EWHC 2183. In that case, it was identified at [22] that the purpose of the extended powers in s.113 was to give the court a greater degree of flexibility in deciding the appropriate relief depending on the nature of the unlawfulness; the stage of the process; and seeking to avoid expense and delay where possible. Further, that in deciding the appropriate remedy, the starting point is the nature of any legal error found and how those errors can be remedied – [23]. At [24] Lieven J indicated that “the process should be taken back to the stage where the error of law occurred rather than back to the beginning through quashing”.
55. Were the Court to find it necessary to make an order of remittal or a quashing order on the basis of one of the errors alleged by the Claimant, the scope of any such order could not rationally be limited to NSP1 and BK1. Each of the alleged errors goes, at the very least, to the sites allocated as a result of MM5 in ED20 [Core/248]. There would [Core / 243] be no rational justification for quashing only NSP1 and BK1 whilst leaving allocations MN1, MN2, MN3 and RD1 extant.
56. More fundamentally, MM5 was proposed because the LPP2 Inspector was satisfied that with out it, the LPP2 would be unsound.¹⁰ Therefore, without the additional allocations which were made in consequence of MM5, it is plain that the LPP2 Inspector was of the view that the LPP2 would be unsound. In those circumstances, if a quashing or remittal order is to be made, it should extend to the entire plan putting

¹⁰ See s.20(7C) of the PCPA 2004.

all matter back for consideration by the decision maker and cannot simply be limited to NSP1 and BK1.

CONCLUSION

57. For the reasons given above, the claim should be dismissed.

James Findlay QC

Ben Du Feu

9 May 2022

IN THE HIGH COURT OF JUSTICE
CARDIFF DISTRICT REGISTRY
ADMINISTRATIVE COURT
PLANNING COURT

BETWEEN:

NORTON ST PHILIP PARISH COUNCIL

Claimant

-and-

MENDIP DISTRICT COUNCIL

Defendant

-and-

**(1) SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND
COMMUNITIES**

(2) LOCHAILORT INVESTMENTS LIMITED

Interested Parties

CLAIMANT'S REPLY

Introduction

1. This reply is submitted by the Claimant in response to the summary grounds of defence ("SGD") received from the Defendant and the Interested Parties ("IPs"). It does not respond to every point raised in the SGDs. Instead, it responds only where it is considered helpful to clarify and/or narrow the issues to assist the court. In doing so, the Claimant adopts the references used in its Statement of Facts and Grounds ("SFG").
2. The first point to note is that the excessive length of the Defendant's 32 page response and the Interested Parties' 17 and 11 page responses, collectively totalling some 60 pages of submissions, provides a clear indication that this claim is plainly arguable and

merits detailed consideration by the Court. Indeed, the Defendant expressly recognises this (albeit only in respect of Ground 1) at para. 91 of its SGD.

Ground 1

3. Notwithstanding the IPs’ attempts to suggest otherwise, it is clear that Ground 1 directly engages matters of interpretation of LPP1, which is ultimately a matter of law for the courts to consider. This is now reinforced by the Defendant’s SGD, which repeatedly recognises that the issues under consideration related to the correct “understanding” or “interpretation” of LPP1, but suggests that the claim either seeks to re-run points already canvassed during the examination¹ or adopts a flawed interpretation of LPP1 and its relationship with LPP2.² In particular:
 - a. At para. 4 of its SGD, the Defendant states that “*this challenge to LPP2 attacks the understanding of the strategic aims and objectives of LPP1*”, and at para. 85 it states that accepting the Claimant’s case on Ground 1 “*would undermine the understanding of LPP1*” (emphasis added).
 - b. At para. 19, the Defendant explains that “[t]he Inspector was keen to understand in the hearings the meaning of paragraphs LPP1 4.7 and 4.21” (emphasis added).
 - c. At para. 69, the Defendant states that “[w]here the additional 505 dwellings ought to go was a matter which required policy interpretation with afforded flexibility” (emphasis added).
 - d. At para. 81, the Defendant states that “*it was clearly open to the Inspector to interpret the requirement to allocate an additional 505 dwellings as a strategic expectation which stemmed from LPP2*” (emphasis added).
 - e. Para. 83 suggests that the “*Claimant’s interpretation*” does not tally with the interpretation provided in *Lochailort Developments Ltd v Mendip DC*, which, as the Claimant has already explained,³ was *obiter* and not subject to any detailed consideration.

¹ Defendant’s SGD, paras. 60 – 61.

² Defendant’s SGD, paras. 64, 66 – 67 and 69.

³ SFG, para. 58.

4. In an attempt to distance themselves from matters of interpretation, the IPs take a different approach. They argue (contrary to the Defendant’s understanding of the position) that the Inspector did not in fact reach the view that LPP1 required the additional 505 dwellings to be located in the north-east of the District, and instead went no further than treating LPP1 as requiring consideration to be given to allocations in the north-east. Although superficially attractive, these arguments fail to read the IR as a whole and in its proper context, and do not stand up to scrutiny. In particular:
- a. They are inconsistent with the clear wording of the explanatory text that was specifically introduced to explain the precise reason for additional allocations NSP1 and BK1, which expressly states that “*additional allocations were necessary...to address the **requirement** in Policy CP2 to provide 505 dwellings located adjacent to Midsomer Norton and Radstock and in settlements in the north/northeast of the district*” (emphasis added).⁴ IP1 recognises that that this wording reflects a misinterpretation,⁵ but seeks to dismiss it on the basis that: (i) the approach taken in the IR reflects the correct interpretation; and (ii) paragraph 10.6.2 of LPP2 provides an accurate summary of the approach adopted in LPP1.⁶ The first point is circular. The Claimant has already identified why the IR goes further than the IPs now seek to suggest, and the wording inserted into the plan through main modifications supports the Claimant’s analysis of the IR. With regard to the second point, paragraph 10.6.2 is followed by a further paragraph which states that “*...sites to provide 505 dwellings have been identified as **a strategic requirement** and were addressed through Main Modifications to this plan...*” (emphasis added), which is entirely consistent with the erroneous approach that is then taken at paras. 11.2.2 and 11.20.3, and the analysis at IR/56-72 under the sub-heading “*Is there a strategic case for the allocation of any additional 505 dwellings in north-east Mendip?*”. At the very least, the wording inserted into paras. 11.2.2 and 11.20.3 makes it arguable that the Inspector and the Defendant misinterpreted LPP1, and what it required.
 - b. As is explained in the witness statement provided by Mr Sestini on behalf of the Defendant,⁷ when submitting the plan the Defendant had already read LPP1 para.

⁴ Core/79, para. 11.2.2 and Core/87, para. 11.20.3.

⁵ IP1’s SGD, para. 15.

⁶ Core/69.

⁷ See para. 15.

[Core / 150]

[Core / 158]

[Core / 140]

4.21 as requiring it to “consider” allocations, rather than imposing a firm commitment. However, the Inspector came to the view that more was required, which instigated the whole process of seeking to accommodate the additional 505 dwellings within the north-east of the district – and only within the north-east.

- c. Paragraph 16 of the Interim Note (ED20) from the Inspector **[Core/16]**, which **[Core / 10]** directed the additional work to be undertaken in the first place, wrongly states that “*paragraph 4.21 in LPP1 refers to the requirement to address the housing needs of the north-eastern part of the District*” (emphasis added). As has already been set out, the additional 505 dwellings were to meet district-wide needs and were not required to meet any specific needs in the north-east of the District.⁸ Nevertheless, this misunderstanding follows through into IR/71, which states that “*the strategic direction in LPP1 requires the Council to consider development allocations to meet the needs in the north-east of the District*” (emphasis added) – a point that is omitted from IP1’s quotation of this passage through the unnecessary and misleading insertion of the words “of the District” after “needs”.⁹
- d. Other documents produced by the Defendant also indicate that the Defendant was proceeding upon the understanding that LPP1 required additional sites to be identified in the north-east. For example, the SA Adoption statement states that “*In accordance with the locational directions set out within LPP2 [sic] CP2 and the supporting text, land to accommodate 505 dwellings was sought in the north east of the district*” (emphasis added) **[Supp/120]**. The reference to LPP2 rather than **[Supp / 240]** LPP1 is clearly a typographical error, since CP2 is the relevant policy in LPP1.
5. The fact that the Inspector subsequently went on to apply planning judgement at IR/73-84 does not mean that his overall approach was not based on an initial misinterpretation of what LPP1 required, as is set out in the preceding section of the IR. Indeed, it is noteworthy that the Inspector dedicates two separate sections of his report to the consideration of this issue. The first deals with the strategic case, based upon his (incorrect) understanding of LPP1, and the second deals with matters of planning judgement which he considers to support the strategic approach.¹⁰ The Claimant does not challenge the planning judgements in the second element of the report. However,

⁸ SFG, para. 48.

⁹ Defendant’s SGD, para. 14(4).

¹⁰ See IR/85, which summarises this.

that does not mean that his overall approach was not infected by the misinterpretation adopted regarding the strategic direction.

6. In light of the above, it is therefore unsurprising that the Defendant (rightly) recognises that Ground 1 has “arguable merit”.¹¹ On this basis alone, the threshold for granting permission for Ground 1 has been passed.

Ground 2

7. The Defendant’s continued assertion that this ground of challenge is parasitic on Ground 1 is misconceived. If the Inspector did not misinterpret LPP1 by treating it as creating a strategic requirement to allocate an additional 505 dwellings in the north-east of the district (as IP1 and IP2 argue), then that raises the separate question as to whether the Council erred by failing to consider whether to appraise reasonable alternatives to that option. The only basis upon which this consideration would not arise is if, properly interpreted, LPP1 did require these dwellings to be allocated within the north-east of the district, so that this strategic requirement had already been fixed through the first part of the plan. Therefore, in addition to being misconceived, the Defendant’s response is also indicative of its misunderstanding of what is required by LPP1.
8. The SGDs provided by the Defendant and the IPs do not grapple with the critical issue raised by this ground of challenge, which is that the Defendant completely failed to consider whether or not there were any reasonable alternatives to the proposal to allocate an additional 505 dwellings within the north-east of the district to the exclusion of all other areas within the district. This direction of the 505 dwellings to a specific area was a completely separate, and logically prior, issue to the subsequent appraisal of the specific site allocations that were identified *within* the north-east and any reasonable alternatives to these (again *within* the north-east). Nor is it saved by the fact that the Defendant previously undertook a district-wide site selection process, because that was not dealing with the need to allocate an additional 505 dwellings¹² and therefore cannot be regarded as a previous part of an iterative process.

¹¹ Defendant’s SGD, para. 91.

¹² The Defendant’s position at the start of the examination was that it was “*entirely legitimate to take account of windfall growth/monitoring in meeting the requirement*” which rendered it unnecessary to deal with the matter of the 505 dwellings through specific additional allocations as part of the district-wide process [Supp/6 to 7, sub-heading ‘*The 505 Dwellings*’]

9. As Holgate J. observed in *Flaxby Park Ltd v Harrogate BC* [2020] EWHC 3204 at [129], there is an important distinction between the failure to give any consideration at all to a matter which is expressly required by the SEA Regulations, such as the consideration of reasonable alternatives to a particular policy, and decisions regarding the selection and treatment of those reasonable alternatives which is a matter of evaluative judgement for the decision-maker.
10. In the present case, there is no indication that the Defendant gave any consideration whatsoever to the question of whether there were any reasonable alternatives to the new “strategic requirement”¹³ to place an additional 505 dwellings solely in the north-east of the district through main modifications to the plan, and neither the Defendant nor the IPs have been able to point to any part of the SA where this issue was considered. Accordingly, this is not a case where the Defendant’s evaluative judgement on the content of the SA is subject to challenge so that the Claimant must demonstrate that the approach taken was irrational.¹⁴
11. The explanation which the Defendant now seeks to rely upon in the witness statement of Mr Sestini to explain why it would not have been a logical approach represents *ex post facto* justification, which is plainly not admissible. Moreover, paras. 17 – 22 of this witness statement simply reinforce the fact that the Defendant proceeded upon the misapprehension that there was no need to consider any reasonable alternatives to the focused area of search in the north-east of the district indicated by the Inspector in his Interim Note and proposed main modifications, and in accordance with its misinterpretation of para. 4.21 of LPP1. However, if this proposed modification to the plan was truly being treated on a without prejudice basis, as the Defendant and IPs maintain, then it was incumbent upon the Council to assess reasonable alternatives to this approach (i.e. to the decision to place all 505 additional dwellings in the north-east of the district, however defined), or, at the very least, set out why it did not consider that there were any reasonable alternatives.

¹³ Core/69, para. 10.6.3.

¹⁴ Cf. Defendant’s SGD, para. 74; IP1’s SGD, paras. 20 – 23; and IP2’s SGD, paras. 14 – 14 and 20.

12. No reliance can be placed on IP1's submission that it was "*open to the Defendant*" to focus on alternatives *within* the north-east and conclude that alternatives outwith the north-east would not have achieved the objective which the Inspector considered that LPP2 ought to include,¹⁵ or IP2's submission that it was rational for the Council to focus this stage on the SA on meeting the housing needs of the north-eastern part of the District.¹⁶ The IPs' speculation about the judgements which it might have been open to the Defendant to reach had it considered this issue are neither here nor there, what matters is that there was a failure to consider it and a failure to provide any reasons explaining the approach that had been taken (see *Heard v Broadland DC* [2012] EWHC 344 (Admin) at [58] – [70]; and *Ashdown Forest Economic Development LLP v SSCLG* [2015] EWCA Civ 681 at [42]).
13. IP1's submission¹⁷ that this was not a case of the Defendant entirely ignoring or overlooking the need to consider reasonable alternatives altogether is also misplaced. All of the authorities relied upon by the Claimant at SFG/44 concerned a failure to consider reasonable alternatives to particular policies or aspects of a plan, not a complete failure to consider any reasonable alternatives during the entire preparation of a plan.
14. Finally, the Defendant's suggestion¹⁸ that the Court should exercise its discretion to refuse relief in the event that it were to identify a breach of the SEA Regulations is hopeless, and is rightly not advanced by either of the IPs. The Inspector plainly relied upon the conclusions of the Second SA Addendum to support his conclusions that the main modifications subject to this challenge were necessary to make the plan sound,¹⁹ and it cannot possibly be said that the outcome would have been the same if the SA had included an assessment of alternatives elsewhere within the district.
15. To be clear: it is the failure to consider alternatives to the decision to place all 505 dwellings in the north-east of the district which causes the Defendant and the Inspector to fall into error; the consideration of alternative specific sites within the north-east does not and cannot cure this logically prior element of the assessment process.

¹⁵ IP1's SGD, para. 25.

¹⁶ IP2's SGD, para. 17.

¹⁷ IP1's SGD, para. 26.

¹⁸ Defendant's SGD, para. 76.

¹⁹ See para. 69 of the Claimant's SFG.

Ground 3

16. The Inspector's reference to the need to avoid arbitrary caps, which is relied upon by the Defendant and the IPs in response to this ground of challenge, simply reinforces the Claimant's point that the Inspector failed to have regard to the requirements of Policy CP2.2(c) and/or provided inadequate reasons to explain how the allocations were consistent with the requirements of this policy.
17. The proposed housing requirements for each village did not represent an arbitrary cap on future development. As the explanatory text to Policy CP2 explains, they reflected the broad principle that *"levels of new development should be appropriate to their existing scale and have regard to have regard to environmental constraints"*, which had been identified following a *"lengthy and intensive period of engagement with Parish Councils"* during the preparation of LPP1.²⁰
18. The village requirements therefore represented an important component of the Policy CP2.2(c), which was the relevant strategic policy that the Inspector was required to apply when considering allocations that were being made in LPP2.
19. It was not open to the Inspector to seek to amend the requirements of this policy that had already been found sound through the examination of LPP1 unless he was endorsing the adoption of an alternative policy that was intended to supersede this policy (per regulation 8(5) of the Town and Country Planning (Local Planning) (England) Regulations 2012).
20. Moreover, the main modification which the Inspector introduced to paragraph 3.28 of LPP2 is inconsistent with the first part of this paragraph and the requirements in Policy CP2.2(c) and its supporting text, which strongly suggests that the Inspector either failed to have regard to these requirements or misunderstood them.

Ground 4

21. The fact that this ground of challenge does not raise any freestanding issues does not mean that it is parasitic on the success of the other grounds of challenge. In the

²⁰ See paras. 4.31 – 4.37 of LPP1 at [Core/330-332].

alternative that those specific grounds of challenge are not made out, the Claimant maintains that if the Inspector did proceed upon the proper interpretation of LPP1 and did take the requirements of CP2.2(c) into account it was irrational to reach the decision that he did regarding the allocation of NSP1 and BK1 because it was plainly not in accordance with Policy CP2.2(c) and no consideration had been given to other potential sites outside of the north-east that might represent sustainable development that would accord with Policy CP2.

Interim Relief

22. For the reasons set out above and in the Claimant's SFG, the claim is arguable and has real prospects of success.
23. The considerable prejudice that will be caused to the Claimant if Policy NSP1 is not suspended pending the determination of this claim is clear. As IP2 explains,²¹ the Defendant is currently considering a planning application relating to the site that is allocated through NSP1. If that application is determined before this claim, the allocation (as part of the adopted development plan) will attract the weight of section 38(6) of the Planning and Compulsory Purchase Act 2004, and the Defendant will be required to determine the application in accordance with the development plan (including NSP1) unless material considerations indicate otherwise. If permission is granted in these circumstances, the Claimant would be required to bring a further parallel claim for judicial review of that decision to avoid this claim becoming largely academic. Furthermore, unlike the position in *IM Properties Development Ltd v Lichfield DC* [2015] EWHC 1982 (Admin) at [45], the Claimant does not have the opportunity to seek an adjournment because the application is not currently subject to an appeal.
24. The only prejudice that is relied upon by IP2 is the potential to delay to the determination of its application. This planning application was made in 2020 (well before the NSP1 site was allocated through the adoption of LPP2) and without any guarantee that the draft NSP1 allocation put forward as part of main modifications

²¹ IP2's SGD, para. 38.

during the examination would be carried through into the final adopted plan.²² It was in that sense – and always has been – a speculative endeavour.

25. Moreover, this risk of delay exists irrespective of whether Policy NSP1 is suspended, and IP2 always has the option to appeal against non-determination if the Defendant declines to determine the application pending the final determination of this claim. Furthermore, comparable delay would in any event be caused if the Claimant is forced to make a subsequent application for judicial review of a decision to grant planning permission in reliance upon policy NSP1. Finally, it is important to note that IP2 has confirmed²³ that it intends to pursue its application regardless of the outcome of this claim.

26. The very limited nature of the interim suspension which is sought means that it will not give rise to any material uncertainty or wider implications for decision-making elsewhere in the district beyond those that would exist as a result of this claim irrespective of whether interim relief is granted (*cf. IM Properties* at [37]). Delay to the determination of IP2's application would not make any material difference to the Defendant's ability to demonstrate a five year housing land supply, which IP2 states has recently been confirmed as being circa 3.5 years, and (as above) this delay would arise in any event if the Claimant were to bring judicial review proceedings against the decision.

27. The balance of convenience therefore plainly lies in favour of granting interim relief, which would also avoid the need to bring parallel judicial review proceedings against any decision taken by the Defendant in reliance upon Policy NSP1, which would have further cost and resourcing implications for the parties and the Court.

Conclusion

28. For the reasons set out above, all four grounds of challenge are at least arguable and the Claimant therefore respectfully requests that permission is granted for all grounds on the papers and the operation of NSP1 is suspending pending the final determination of the claim.

²² cf. the deletion of the draft allocation in policy RD1 at IR para. 141 [Core/145]

²³ IP2's SGD, para. 39.

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4 March 2022



**Notice of Adoption
Mendip District Local Plan Part II 2006-2029:
Sites and Policies**

**Planning and Compulsory Purchase Act 2004 (as amended)
Town and Country Planning (Local Development) (England)
Regulations 2012 (as amended)**

In accordance with Regulations 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012 notice is hereby given that Mendip District Council adopted the Mendip District Local Plan Part II 2006-29: Sites and Policies on 20th December 2021.

The Mendip Local Plan Part II was the subject of an independent examination by Mike Fox BA (HONS) DIPTP MRTPI, a Planning Inspector appointed by the Secretary of State for Housing, Communities and Local Government. In his report following the examination, issued on 1st September 2021, the Inspector found the Plan to be sound, subject to inclusion of a number of main modifications listed in Appendix 1 of his report. Additional minor modifications have also been included by the Council to address factual updates and corrections.

The Mendip Local Plan Part II 2006-2029 identifies additional housing and employment sites and policies for the District to 2029. These now form part of the development plan for the district alongside the Mendip Local Plan Part I (adopted in 2014).

Any person who is aggrieved by the adoption of the Local Plan Part II may make an application to the High Court under section 113 of the Planning & Compulsory Purchase Act 2004, on the grounds that: (i) the document is not within the appropriate powers conferred by Part 2 of the Planning and Compulsory Purchase Act 2004; and/or (ii) a procedural requirement of the Act or its associated Regulations has not been complied with. Any such application must be made promptly and no later than the end of the period of six weeks starting with the date on which the Local Plan was adopted which is 20th December 2021.

Availability of the Plan and adoption Documents

The adopted Local Plan Part II and supporting documents are available to view or download from the Mendip District Council website on the Local Plan Part II page www.mendip.gov.uk/localplanpart2 .

The adopted version incorporates the main modifications set out in Appendix 1 of the Inspector's report and the Council's minor modifications.

Printed copies of the Inspector's Report, the Local Plan Part II and adoption documents can also be inspected at the Council's principal offices at Cannards Grave Road, Shepton Mallet, Somerset BA4 5BT (from 8.30am – 5.00pm)

Copies of the Local Plan Part II are also available to view at the Council's Access Points in Frome, Glastonbury, Street and Wells (please check the Council's website or contact (0300) 303 8588 for opening hours and directions).

<http://www.mendip.gov.uk/councilaccesspoints>

The supporting documents include a sustainability appraisal adoption statement and a revised Habitat Regulations Assessment.

A new Policies Map is currently being prepared and will be issued as soon as practicable after adoption. In the meantime, the Policies Map consists of the Local Plan Part I Policies Map 2014 plus the revisions shown in the settlement and site maps on the Local Plan Part II page.

Further information on the Plan and adoption documents, please contact the planning policy team via customer services on 033 303 8588 or at planningpolicy@mendip.gov.uk

Mendip District Council
22nd December 2021

LOCAL PLAN

PART II: SITES & POLICIES



Adopted December 2021
2006-2029

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[Appendix 1](#): Glossary of Terms

[Appendix 2](#): Saved Policies

1. Introduction

The Purpose of the Plan

1.1 The Local Plan is split into two parts. The first stage, Local Plan Part I, took effect on 15th December 2014. It sets out how much land for housing and employment will be needed and the sorts of places where it will be acceptable for it to be located. It also identifies a number of “strategic” development sites.

1.2 The purpose of Mendip District Local Plan Part II - Sites and Policies is to:

- Identify and allocate additional sites for housing to meet the requirements for affordable and market housing set out in Local Plan Part I;
- To ensure that there are sufficient sites to enable a rolling five-year supply of housing land in the district and to meet the housing delivery test;
- To review and allocate additional employment land to support economic development;
- To review and update development limits around the towns and villages;
- To review and update the open and community space designations;
- To set out additional development management policies to meet objectives in Local Plan Part I and the National Planning Policy Framework.

Status of Local Plan Part II

1.3 Local Plan Part I (LPP1) and Local Plan Part II (LPP2) are complementary documents and should be read together. Local Plan Part I sets out a long-term strategic vision for the future of the district and sets out how Mendip District Council (the Council) intends to stimulate the development which the district needs, including housing, economic development and infrastructure. It puts in place a selection of policies to manage development in a manner appropriate to this district which generic national policies do not adequately cover.

1.4 Local Plan Part II allocates specific sites for development or for other purposes in line with the intentions of the policies in Local Plan Part I. Both the policies and the supporting text make up the statutory Development Plan for the purposes of determining planning applications. Local Plan Part II was adopted on 20th December 2021.

Relationship to other Planning Documents

1.5 Local Plan Part I establishes an overarching development vision and key objectives for the district. All other parts of the planning framework for the district must be aligned with its intentions in order that a coherent and consistent basis for decision making is in place.

1.6 Local Plan Part II identifies additional sites and sets out additional development management policies to meet objectives set out in Local Plan Part I and the NPPF.

- 1.7 In addition to the development plan, the Council may also produce Supplementary Planning Documents which will provide details of how policies in the development plan will be implemented in practice.
- 1.8 Neighbourhood Plans can be prepared by Parish and Town Councils and are an additional way in which sites and policies promoting development can be drawn up to reflect the needs of local communities. Once “made” Neighbourhood Plans have the same status in planning decisions as the Local Plan.
- 1.9 A schedule of the documents which make up the development plan for Mendip, relevant guidance and community plans is published on the Mendip website.¹

Supporting Documents

- 1.10 Local Plan Part II is supported by a number of background papers and statutory documents which are required as part of the development plan process. Documents that were published alongside the pre-submission consultation were:

- Sustainability Appraisal of Local Plan Part II
- Habitat Regulations Assessment
- Infrastructure Delivery Plan
- Equality and Diversity Impact Assessment

Documents published at submission were:

- An update to the Duty to Co-operate Statement
- Statement of Consultation

- 1.11 Background papers cover housing land and future supply.

Sustainability Appraisal

- 1.12 Sustainability Appraisal is a mandatory requirement and helps to ensure the objective of achieving sustainable development is fully considered in preparing plans. Sustainability Appraisal incorporates the requirements of the EU Directive on Strategic Environmental Assessment (SEA). The auditing process of the Sustainability Appraisal leads to more informed and transparent decision-making and helps to achieve the aims of sustainable development.
- 1.13 The Council have prepared a Sustainability Appraisal (SA) of the Plan. SA is iterative and integrated into the plan-making process, influencing the selection of site options and policies through the assessment of likely significant effects.
- 1.14 A SA report was published for consultation alongside the Pre-submission Plan and updated at submission and through the examination process. A summary of the SA process and revisions is contained in the SA adoption statement (Dec 2021)

¹ <http://www.mendip.gov.uk/lds>

- 1.15 Habitat Regulations Assessment (HRA) is required following a European Court of Justice ruling that land use plans should be subject to an appropriate assessment of their implications for European wildlife sites and protected species. These include Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) and species protected under regulation 10 of the Habitat Regulations 1994. An HRA was published alongside the Pre-Submission Plan taking account of Proposed Changes with supplementary updates associated with Main Modifications. The HRA has also been updated following Natural England advice of the impact of excessive phosphates on the condition of the Somerset Levels and Moors RAMSAR. An adoption version of the HRA (v4 December 2021) is available with this Plan. Recommendations in the HRA are incorporated into policy and development allocations.

Duty to Co-operate

- 1.16 The Plan is prepared under a legal 'duty to cooperate' requirement through the Localism Act 2011 which requires local authorities to work with neighbouring authorities and other prescribed bodies when preparing a development plan document. There are major proposals in the Part II plan which have cross-boundary implications.
- 1.17 The Council have been engaged with neighbouring authorities and statutory consultees throughout the preparation of the Local Plan Part I, which sets the framework for Local Plan Part II. The spatial strategy and level of development are considered to be strategic issues where the duty to cooperate has been addressed through Local Plan Part I.
- 1.18 There is an ongoing discussion with neighbouring authorities on their own development plans. There are no proposals in neighbouring districts which set out expectations for housing or employment growth in Mendip to meet the needs of neighbouring areas.
- 1.19 An updated statement on the Duty to Co-operate was prepared at Submission stage.

Infrastructure

- 1.20 A range of infrastructure providers have been consulted during the preparation of this plan. The Infrastructure Delivery Plan provides an overview of Infrastructure constraints at settlement and site allocation level. Advice received on specific sites has been included in the site allocation policies.

Equality and Diversity Impact Assessment

- 1.21 An Equality and Diversity Impact Assessment was published with the Pre-submission Plan. These assessments are a systematic way of examining whether new policies differentially affect any person or groups of people.

Consultation

- 1.22 Preparation of this Plan has involved three significant consultation exercises: a district wide Issues and Options Consultation; an informal consultation with parish and town councils on site options and a Pre-submission consultation in January 2018. Additional consultation took place on Proposed Changes in February 2019 which were examined with the Plan. Further information can be found in the statement of consultation. Additional consultation was undertaken on Main Modifications and Additional Main Modifications during the examination.

Policies Map

- 1.23 The Policies Map will be revised following adoption to include changes to development limits and other designations set out in this plan. Changes to the Policies Map are shown in schedules and versions of the Plan published at submission and at examination. This has included any revisions needed to correct errors or deletions to saved policy.

Implementation

- 1.24 Local Plan Part I contains a policy monitoring framework (in Appendix 2) which sets out indicators and topics against which monitoring will be reported.
- 1.25 Updates on housing/employment delivery and supply are published on the Mendip website including current five year housing supply .
- 1.26 A 'Delivery Action Plan' will be developed and published separately from Local Plan Part II. This will set out progress on major sites and specific measures to bring forward housing and employment delivery.

2. Policy Overview

National Planning Framework

- 2.1 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England. The NPPF must be taken into account in the preparation of Local and Neighbourhood plans and is a material consideration in planning decisions. One of its core principles is that development should be genuinely plan-led, empowering local people to shape their surroundings, with Local and Neighbourhood plans setting out a positive vision for the future of the area. It is an objective of the NPPF to deliver a wide choice of high quality homes and to boost significantly the supply of housing.
- 2.2 A revised NPPF was published in July 2018 and was subsequently reviewed in July 2021. Local Plan Part II was submitted under transitional arrangements. The Council expects that significant policy changes will be addressed through a review of Local Plan Part I rather than this Plan (see Future Local Plan Review).

Mendip Local Plan Part I

- 2.3 National planning policy places Local Plans at the heart of the planning system and planning decisions must be taken in accordance with the development plan unless material considerations indicate otherwise.
- 2.4 The Local Plan Part I is a district-wide plan which sets out a vision for the area, key objectives and a strategy for development over the plan period 2006 to 2029. The Plan was adopted in December 2014 and can therefore be treated as an ‘up-to-date’ plan for the area, prepared in accordance with the NPPF.
- 2.5 The Local Plan Part I identifies a number of objectives:
- To diversify and strengthen the local economy;
 - Providing new homes to complement economic growth and a growing population;
 - To improve accessibility by other means than the private car;
 - To maintain and enhance the quality of the local environment and contribute to mitigating climate change;
 - Infrastructure investment to meet the needs of the growing population and economy.
- 2.6 Local Plan Part I establishes a minimum target of **9,635** homes to be built in the district from 2006 – 2029 equating to development of **420** homes a year from 2011-2029. The Plan also identifies a settlement hierarchy which directs development to the five towns in Mendip and identifies ‘Primary’ and ‘Secondary’ villages where more limited development is appropriate. Core Policy 3 (CP3) sets out targets for the level of employment land which needs to be delivered across the district to meet the projected growth in jobs.

Mendip Local Plan Part II

- 2.7 The Mendip Local Plan Part II is not a new plan for the district and does not replace the Policies in the Part I Plan. However, the Part II Plan does provide clarification where appropriate and also addresses matters specifically highlighted for review at this stage in Local Plan Part I.
- 2.8 The Plan allocates sites for development over the same Plan Period which is 2006 - 2029.
- 2.9 The additional development management policies align and support the objectives of the Part I Plan. A number of policy areas were considered for inclusion in the Local Plan Part II but are considered to be more appropriate to be addressed in a future Local Plan Review. This will also take into account proposed changes made to the NPPF in 2018 and 2021.

Policy LP1: Future Development Plan Review

- 2.10 Local Plan Part II forms part of the Council's development plan timetable - the Local Development Scheme or LDS - which was agreed in January 2017.
- 2.11 Following adoption of this Plan, the Council is committed to undertake an immediate review of Local Plan Parts I and II updating strategic and non-strategic policies over a revised plan period.
- 2.12 The Local Plan Review will take into account the district housing requirement set by the standard method (Local Housing Need) and changes to the NPPF since the Part 1 Plan was adopted.
- 2.13 In recognition of the significant shortfall in Gypsy and Traveller pitches, at least one site will be allocated through the Local Plan Review unless a site has been identified in a separate document already submitted for examination.

Policy LP1: Future Development Plan Review

The Council commits to an immediate review of the Local Plan Part I and Part II. One or more documents will be produced which replace, revise or update adopted policies. The review of the Local Plan will commence within 2 months of adoption of the Local Plan Part II. The Council also commit to submit a successor development plan to the Planning Inspectorate within 3 years of commencement.

The replacement Mendip Local Plan will extend the existing Part I plan period by at least 5 years and as a minimum will review the following matters:

- **The housing requirement for Mendip and the housing supply needed to meet this need;**
- **Any unmet need arising from adjacent authorities;**
- **Employment land requirements for Mendip as identified through an updated comprehensive evidence base;**
- **Provision for Gypsies, Travellers and Travelling Showpeople (GTTS), to include at least one site to accommodate the needs of the Gypsy and Traveller community unless a site has already been allocated in a submitted development plan document; and**
- **An evidence-based assessment of highways and other infrastructure needs, in partnership with Somerset County Highways Authority and Highways England.**

3. Housing Land

Housing Requirements and Local Plan Part II

- 3.1 The housing requirement in Local Plan Part I provides the starting point for considering the delivery levels to be obtained from sites in this Plan. It also forms the basis for the calculation of the five year housing supply.
- 3.2 The Part I Plan establishes a requirement of 420 dwellings per annum over the period from 2011 to 2029. This was tested through the Local Plan examination and takes into account national household projections, assumptions about long term migration rates and other factors.

Strategic Housing Market Assessment

- 3.3 Since the Plan was adopted, the Council have published two studies which provide an updated picture of housing need in the district and the extent of the local Housing Market Area (HMA). The findings of these studies do not replace the adopted plan figure but are a significant consideration in assessing housing delivery through Local Plan Part II.
- 3.4 The conclusions of the Housing Market Area study² demonstrate that Mendip District can be treated as a self-contained HMA. This means that for practical purposes, Local Plans can continue to be prepared for the area to address housing need arising in Mendip without a specific need for joint planning with neighbouring areas.
- 3.5 The Strategic Housing Market Assessment (or SHMA)³ updates the Mendip Housing Needs study (mid 2011) and the 2011-based housing projections incorporated in Local Plan Part I. It provides an estimate of *Objectively Assessed Need* which is the level of housing required in a HMA before any constraints (such as planning policy or land supply) are taken into account.
- 3.6 The SHMA 2016 concludes that OAN can be considered as reasonable and justified within a range of 411 – 491 dwellings p.a. It also recommends that, as a starting point, a level towards the higher end of the range would be more robust. This takes into account sensitivity testing using alternative assumptions in the projections and a better alignment of housing with job growth.
- 3.7 In responding to the SHMA, the Council have taken the following approach as to how its outputs are used to inform Local Plan Part II.
- A recognition that while the findings in the SHMA represent the most up-to-date evidence on housing need, they have not been tested through an examination process and do not replace the adopted plan requirement.

² Housing Market Areas and Functional Economic Areas in Somerset (ORS) Sept 2015.

³ Mendip, Sedgemoor, South Somerset & Taunton Deane – Strategic Housing Market Assessment (Oct 2016), JG Consulting

- That the role of re-examining housing requirements is best considered through a Local Plan Review to follow Local Plan Part II;
- That at this stage, the SHMA findings provide a means to test the overall robustness of housing delivery rather than target setting.

3.8 The need to explore higher levels of development than Local Plan Part I also reflects the fact that the dwelling requirements are minima and that a significant proportion of housing needed over the plan period has already been built or is already committed. The Local Plan Inspector in examining Local Plan Part I also considered that there were likely to be sustainable options to increase housing delivery over the adopted plan figure.

3.9 This approach also aligns with the expectations of national planning policy to boost the supply of housing and is more likely to produce a ‘sound’ plan through examination.

Housing Supply Objectives

3.10 In terms of housing supply, there are a number of principal objectives to be delivered from the site allocations through this Plan. This takes into account national guidance and the policies and approach adopted in Local Part I. These are:

- To address the minimum requirements specified in Local Plan Part I;
- To support a rolling five year supply of deliverable land;
- To provide opportunities to increase delivery of affordable housing;
- To achieve a distribution of growth consistent with the spatial strategy;
- To explore an uplift in housing growth through testing of suitable sites.

3.11 It is considered these objectives can be addressed through the scope of Local Plan Part II and do not require a complete review of the spatial strategy.

3.12 The plan takes a site-based approach. This means assessing available and sustainable sites to address these objectives rather than revising district and settlement housing requirements.

Objective (a): Meeting minimum housing requirements specified in Local Plan Part I

3.13 LPP1 Core Policy 2 sets out that the district should accommodate at least 9,635 additional dwellings over the period 2006 to 2029. It also sets out minimum housing requirements for the main towns and Primary and Secondary villages. The residual levels of development to meet the district target are set out in the Housing Background Paper, which covers housing supply. In total, Local Plan Part II would need to provide 726 dwellings located in towns and villages with a residual requirement.

Objective (b): To help demonstrate a rolling five year supply of deliverable land

3.14 The NPPF requires that each Local Planning Authority demonstrate that there is a five year supply of deliverable sites for housing development. These are specific sites within the overall land supply where there is confidence that dwellings can be

delivered in a rolling five year period. Based on the adopted plan target, the requirement equates to demonstrating a supply of 2,055 dwellings (including a 5% buffer).

- 3.15 The five year supply figure is regularly updated through statements and monitoring reports published on the Council's website.
- 3.16 The allocation and release of sites in this Plan will make a significant contribution to maintaining a five year supply over the longer plan period to 2029 and particularly in Years 5 – 10 (from 2022-2027).
- 3.17 An assessment has been made of the likely timings of construction of the various supply sources to produce a trajectory of dwelling completions. Housing trajectories are site by site estimates of delivery and start and finish dates for a development. Combining housing trajectories for each settlement demonstrates that the plan can deliver in excess of five years supply of land to well beyond the timing of the next Local Plan Review⁴.
- Objective (c): To increase delivery of affordable housing**
- 3.18 Evidence from the 2016 SHMA re-iterates the need to make the maximum use of the development plan to deliver affordable housing and particularly housing for social rent. However, the expectations in the Part I Plan of increased delivery through small sites has been compromised by government policy to generally exclude sites under 10 units from contributing to delivery of affordable homes. Added uncertainties to the corporate plans of Registered Providers have also added to delays on securing and delivering homes on larger sites.
- 3.19 Policies in Local Plan Part I are intended to deliver 2,500 affordable homes over the plan period. The allocations identified in Tables 1 and 2 should contribute 887 affordable homes in compliance with Policy DP11. 1,201 affordable homes have been completed between 2006 and 2019. The housing trajectory, which includes sites allocated in this plan, together with existing and potential commitments should provide around 1,411 affordable home to the end of the plan period in 2029 and 1,527, dwellings over the next 15 years. Additional affordable homes would also be expected from windfall sites.
- 3.20 A refreshed Somerset Housing Strategy will provide a basis for developing a policy response to housing need for specific groups – particularly the need for older-age households. It is considered there is sufficient flexibility within adopted Local Plan Part I policy for any revised Council's approach to be set out in Supplementary Planning Documents. If specific development management policies are required these will be included in the Local Plan review.

⁴ See Testing Housing Supply Background Paper which shows a provisional housing trajectory.

Objective (d): To achieve a distribution of growth consistent with the spatial strategy

- 3.21 The Part I Local Plan directs development to the five towns (Frome, Glastonbury, Shepton Mallet, Street and Wells) and a proportion to the 16 larger villages with local facilities (identified as Primary Villages) and a group of 13 Secondary Villages. A principle of this Plan is to allocate land to support this distribution.
- 3.22 The Plan allocations therefore focus on those settlements where land supply falls short of the minimum requirements. It also seeks to prioritise suitable and sustainable sites in the towns over village locations.
- 3.23 In addition to requirements for towns and the rural area, Core Policy 2 also identified a need to distribute a further 505 dwellings in towns and villages as a consequence of rolling forward the plan period to 2029 (see also para 4.21 in Local Plan Part I).
- 3.24 Outside the five main towns, Local Plan Part I indicates (in para 4.7) that land on the edge of the district near Westfield, Midsomer Norton and Radstock could be identified to meet housing need in Mendip. This has resulted in additional allocations around Midsomer Norton (see section 10.6) and in Primary villages in the north/northeast of the district.

Objective (e): To provide for an uplift in housing growth

- 3.25 This Plan does not seek to review the adopted dwelling requirement as this will be addressed in the future Local Plan Review. However, the potential delivery from site allocations can be compared against the findings of the 2016 SHMA. For example, applying the highest level of OAN in the SHMA (490 dwellings per annum) over the plan period from 2014 – 2029 would result in a revised plan target of 10,685 dwellings – an uplift of around 11% on the adopted plan.
- 3.26 Table 3 shows that potential delivery based on the capacity of the site allocations in this Plan, together with other sources of supply could provide approximately 11,200 dwellings.

Primary and Secondary Villages

- 3.27 An important part of the spatial strategy is that there should be a proportionate approach to growth in the designated Primary and Secondary villages. However, a number of villages have seen significant additional development built or granted permission. This reflects the impact of a period where the Council was not able to demonstrate a five-year housing land supply.
- 3.28 The approach of this Plan is that further growth in these villages through planned site allocations does not reflect the adopted spatial strategy. The proposed site allocations reflect this principle by not identifying allocations in villages which have already fulfilled the requirements set out in Local Plan. However, small residential development schemes on sustainably located sites within all Primary and Secondary Villages, will in principle be acceptable, subject to environmental and infrastructure

considerations and impact on the living conditions of neighbouring residential occupiers.

- 3.29 Monitoring data at a district level indicates a marked shift in the balance of housing delivery to the rural area. This supports the case for the emphasis of this plan to be on allocations in the Mendip towns. The residual housing numbers quoted for villages in the Plan are based on 2017 surveys.

Other Villages

- 3.30 In preparing Local Plan Part II, the Council have considered the impact of the spatial strategy on settlements which are not identified as Primary or Secondary villages. These settlements lack the range of facilities and services to be considered as sustainable locations for growth – although housing can come forward under the exception policy (DP12) to meet local affordable need. Policy DP24 which promotes single-plot exception sites, will provide additional flexibility in these settlements for lower-cost market housing.
- 3.31 The Council intends that a review of the rural settlement hierarchy is best accomplished through the future Local Plan Review. This would allow for a comprehensive district-wide re-assessment of transport and other relationships between villages and the main towns. This cannot be achieved through promoting or demoting individual villages in the hierarchy in Local Plan Part II.
- 3.32 The Council continues to monitor the level of services and facilities in smaller settlements, and this can be taken into account in deciding individual development proposals. Further information can be found on the Development Monitoring page of the Council website.

Steps in the Selection of Sites

- 3.33 The identification and selection of sites in this plan has followed a structured approach.

Starting Point - Land available for development (the HELAA)

- 3.34 All councils are required to maintain a register of land that has been put forward for Development. This is referred to as the **Housing and Employment Land Availability Assessment (HELAA)**. HELAA sites provide a starting point for development but this does not mean any particular site is developable or suitable for development; either in part or whole.
- 3.35 Housing sites not included in the HELAA may possibly be capable of development. However, because neither a developer nor landowner has promoted the site as available, these sites cannot generally be considered as options in the site allocations process. As the HELAA tends to be focused on greenfield land, a more flexible approach has been taken for employment sites and more complex sites such as those in town centres.

Stage 1: Appropriate Areas for Growth

- 3.36 The settlements suitable for development are defined in the Spatial Strategy - Core Policy 1 of the Local Plan Part I. This includes the five principal settlements of Frome, Glastonbury, Shepton Mallet, Street and Wells, alongside the Primary and Secondary villages. No allocations were proposed outside these settlements. Allocations on the boundary of Mendip and Bath & NE Somerset were made through the examination process.

Stage 2: Initial Sift - High level Assessment

- 3.37 Those sites put forward by landowners and developers for inclusion in the 2014 HELAA were the subject of an initial desktop assessment. This was to establish whether sites were subject to constraints which would rule out housing development for example being located within Flood Zone 3; within a Special Landscape Feature; very steep topography etc.
- 3.38 A number of sites from the HELAA were ruled out at this stage and the results were published as part of the Issues & Options Consultation Document in 2015. A number of new sites were put forward as part of the consultation process and an opportunity was provided for landowners to submit further evidence.

Stage 3: Sustainability Appraisal of suitable sites

- 3.39 The sites that were considered suitable after the initial sift of Stage 2, alongside the new sites put forward through the Issues & Options Consultation, were then subject to Sustainability Appraisal (SA). The SA framework contains a series of objectives that cover the likely environmental, social and economic effects of development. The performance of each site was assessed against each of the objectives using a consistent set of decision aiding questions. The sustainability appraisal used common evidence and the process ensures a transparent, consistent and equitable comparison of all reasonable alternatives.
- 3.40 The appraisal process ruled out some sites and left a number of sites considered to be suitable as preferred options. Further information is set out in the Sustainability Appraisal.

Stage 4: Informal consultation on Preferred Options

- 3.41 In those settlements where allocations were required an informal consultation on the preferred options took place with Town and Parish Councils from December 2016 – February 2017. Where a choice needed to be made between a number of preferred options the views of the Town and Parish councils, alongside views expressed by respondents to the 2015 Issues & Options Consultation, were taken into account in choosing a site for allocation.

Stage 5: Review of draft plan allocations

- 3.42 The preferred options were reviewed, informed by high level assessments from infrastructure providers, additional ecological advice and the Habitat Regulations Assessment. Broader judgements on the role of development sites to fulfil district

growth objectives, community aspirations and policies in neighbourhood plans were also taken into account in the shortlisting of sites.

- 3.43 An assessment has also been made as to whether preferred sites were capable of delivery taking into account policy obligations such as affordable housing and necessary infrastructure. Further information is contained in the Infrastructure Delivery Plan.
- 3.44 The potential level of housing delivery from shortlisted sites was compared with the higher growth targets indicated by the findings in the SHMA and the overall level of uplift was tested through the Sustainability Appraisal. This assessment supports the position that growth objectives can be achieved within the principles set out in the adopted Local Plan Part I.

Summary of Site Allocations

- 3.45 Sites for housing or housing-led development in the Mendip Towns and around Midsomer Norton are identified in Table 1. The sites are allocated to support the role of these centres, increase delivery of affordable housing and ensure a rolling five-year housing land supply. The selection of sites has been informed by Sustainability Appraisal, housing delivery and community objectives.
- 3.46 The specific requirements and the form development will take are described in the individual site allocation policies in the Settlements chapter of this Plan. This is to ensure they are each appropriate in scale and character to their location and in accordance with Local Plan Part I and national policy.
- 3.47 A Future Growth Area is identified in Street. This is to provide flexibility in determining the extent of development and strategic open space which will come through master planning work. This is explained in Policy ST3.
- 3.48 The Future Growth Area in Frome identified in Local Plan Part I is not being retained and will be reassessed as part of town-wide options in the future Local Plan Review.

Housing Site Allocations in Primary and Secondary Villages

- 3.49 The housing sites in Table 2 are allocated in Primary and Secondary villages in Mendip. The sites are allocated to achieve the objectives of the spatial strategy and to meet the village development requirements set out in LPP1.
- 3.50 The selection of sites was informed by the Sustainability Appraisal which accompanied the development of the Plan.
- 3.51 The specific requirements and the form each development will take are described in the individual site allocation policies in the Settlements chapter of this Plan. This is to ensure they are each appropriate in scale and character to their location and in accordance with Local Plan Part I and national policy.

Additional Sources of Housing Supply

- 3.52 In addition to the allocations made in this Plan, additional housing delivery will come forward through a number of planning policy measures and initiatives. These include:
- Sites allocated through Neighbourhood Plans;
 - Rural exception sites including the introduction of a single-site exception policy;
 - Sites for self-build and custom-build housing;
 - Specific redevelopment opportunities and windfall conversions in the towns;
 - Rural windfall from infill in Primary/Secondary villages and conversions of agricultural buildings.

Brownfield Land

- 3.53 A number of brownfield sites are allocated in the towns for housing or mixed use. Some brownfield sites in employment use have not been allocated, reflecting a strategic need to retain land for economic development purposes in central locations.
- 3.54 Land at Saxonvale, Frome has recently been acquired by the Council. A planning application for mixed use redevelopment has been approved in principle.
- 3.55 The Council is required to publish a brownfield register which identifies policy-compliant sites which are suitable for housing-led development and which have not started. Nearly all of these sites are existing commitments and already included in the housing trajectory. The Council will continue to explore options and invite suggestions for brownfield sites through the consultation process on the Local Plan review and other initiatives.

Table 1: Site Allocations in Mendip/Other Towns

Settlement	Local Plan Part II Policy Reference	HELAA Site Ref	Minimum Dwellings
Frome			
Saxonvale ^(*1)	FR1	FRO009	250
Land N and S of Sandy's Hill Lane	FR2	FRO152M	250
Land S of Little Keyford & The Mount	FR3a	FRO001/150/150a	325
Little Keyford	FR7	FRO004	20
Glastonbury			
Highway Depot & Avalon Motors	GL1/1a	GLAS001/1a	67
Allotments, Lowsides Lane	GL2	GLAS119	50
Frogmore Garage	GL3	GLAS027	25
Lintells & Avalon Garage	GL4	GLAS055/GLAS121	25
Street			
Land West of Somerton Road	ST1	STR003	280
Land adj Street Cemetery	ST2	STR137	32
Land West of Brooks Road – MDA ^(*2)	ST3	STR001/WAL026	400
Wells			
Land off Bubwith Walk	WL1	WELLS044	120
Wells Rugby Club	WL2	WELLS094	80
Tincknells Depot	WL4	WELLS116M	25
Land of Elm Close	WL5	WELLS084	100
Land adj Midsomer Norton			
Land at White Post	MN1	NRAD001M	250
Land at Underhill Lane	MN2	NRAD002	60
Land east of A367	MN3	NRAD005	145
Total Dwellings			2504
^(*1) Revised boundary from land allocated in LPP1 Policy CP6b			
^(*2) Main Development Area shown in Policy ST3 – revised boundary from LPP1 Allocation CP8a			
^(*2) Policy ST3 – Capacity of Future Growth Area to be confirmed through masterplanning			

Table 2: Allocations in Primary and Secondary Villages

Settlement	Site Name	Local Plan Part II Policy Reference	HELAA Site	Dwellings in allocated sites
Binegar & Gurney Slade	Land Off Station Road	BG1	GS001	11
Butleigh	West View, Sub Road	BT1	BUT003	25
Coleford	Land s.o Recycling Centre	CL1	COLE024	21
Coxley	Community Centre	CX1	COX030	
Ditcheat	Land on Edge of Ditcheat	DT1	DIT008	16
Ditcheat	Land at Back Lane ^(*1)	DT2	DIT009	0
Draycott	Land N of Westfield Lane	DR1	DRAY004a/22	33
Mells	Part Hill House, Woodlands End	ML1	MELLS002	4
Nunney	Land at Green Pits Lane	NN1	NUNN01a	70
Stoke St Michael	Land East of Frog Lane	SS1	SSM009	30
Westbury Sub Mendip	Land S. of Roughmoor Lane	WM1	WSM006	40
Total				250
NE Mendip				
Norton St Philip	Land off Mackley Lane	NSP1	NSP13/16	27
Beckington	Land off Great Dunns Close	BK1	BECK023	28
Total				55
^(1*) granted permissions and shown as '0' to avoid double counting in Tables 3 and 4				

Summary of Potential Delivery in Local Plan Part II

- 3.56 The proposed allocations in this Plan provide 2,276 additional dwellings over the Plan period to 2029. Together with the remaining sites identified in LPP1 (1,150 dwellings), the combined site allocations will provide 3,426 dwellings.
- 3.57 Table 3 shows delivery by settlement over the plan period to 1st April 2019, and the level of commitments, site allocations and other developable sites as at 1st April 2019. This does not include windfall development or housing which may come forward in the Future Growth Area in Policy ST3.

Table 3: Summary of planned growth 2006-2029 ^(*)

Net Dwellings	Completi ons	Commitments		Part I & 2 Plan Allocations	Other sites	Planned Growth
	2006-19	Started	Not Started			
Frome ^(*)	1502	195	294	845	44	2880
Glastonbury	636	142	91	167	0	1036
Street ^(*)	803	52	13	712	0	1580
Shepton Mallet	727	5	181	600	30	1543
Wells	802	312	309	345	0	1768
Primary Villages ^(*)	750	75	126	291	24	1266
Secondary Villages	386	38	109	11	0	544
Other villages & Countryside	527	113	123		20	783
Adj. Midsomer Norton				455		455
Total	6133	932	1246	3426	118	
^(*) includes sites part allocated in Local Plan Part I – Saxonvale (FR1) and Land west of Brooks Road (ST3)						
^(*) includes village sites allocated in main modifications in NE District (see Table 2)						
^(*) delivery from allocations scheduled to commence in remaining plan period 2019 - 2029						

- 3.58 Table 4a compares the level of planned growth by settlement to the minimum requirements in the adopted Part I Plan. Frome has the highest level of growth reflecting the availability of preferred options and other sites. Glastonbury is particularly constrained. The uplift in the rural area from Local Plan Part I reflects the impact on unplanned growth in villages when the Council was not able to demonstrate a five year supply.
- 3.59 Planned growth is expected to deliver a total of 11,855 dwellings which equates to a 19% uplift over the minimum district requirement of 9,635 dwellings in the Local Plan Part I.
- 3.60 Table 4b illustrates dwelling delivery from planned growth and windfall over the 5-year period (2019 – 2022) and from Years 6 – 10 and then beyond the plan period.

Table 4a: Planned uplift from settlement requirements in CP2

Dwellings	CP2 Minimum Requirement 2006 – 2029	Planned Growth 2006 – 2033/34 (*)	Change from Policy CP2
Frome	2300	2880	25%
Glastonbury	1000	1036	4%
Street	1300	1580	22%
Shepton Mallet	1300	1543	19%
Wells	1450	1768	22%
Villages & rural	1780	2538	43%

NE Mendip District ^{(*)2}	505	510	1%
Total	9635	11855	19%
Windfall 2020/21-2029 ^{(*)3}		900	
Total uplift	9635	12755	32%
Source: Mendip Housing Trajectory (November 2019)			
^(1*) Includes completions to 2019 plus + delivery from commitments, LP1 and LP2 allocations and developable sites to 2029			
^(2*) Allocations adj Midsomer Norton and villages in table 2			
^(3*) Estimated at 100 dwellings per year			

Table 4b: Mendip Housing Trajectory by 5 year Periods

Settlement	5 year period 19/20 – 23/24	Remainder of Plan Period 2024/25 – 2028/29	Beyond Plan period 2029/30 – 2033/34	Total
Frome	648	710	20	1378
Glastonbury	233	105	62	400
Street	207	430	140	777
Shepton Mallet	202	356	258	816
Wells	641	305	20	966
Primary Villages ^{(*)1}	253	241	22	516
Secondary Villages	147	11	0	158
Other villages/countryside	245	11	0	256
Sites adj Midsomer Norton	45	410	0	455
Total Planned Growth	2621	2579	522	5722
Windfall allowance	400	500	500	1400
Total Growth with Windfall	3021	3079	1022	7122

- 3.61 A Sustainability Appraisal (SA) has been undertaken to consider the cumulative impacts of the uplift in the towns and in the district resulting from the allocation of all of the preferred options sites. While some impacts are highlighted, these are considered acceptable provided mitigation is provided on the individual sites.
- 3.62 The SA also compares the impacts of the allocation of all the preferred sites in Frome, Glastonbury, Street and Wells against an option of just meeting the minimum housing requirements in Local Plan Part I. However, this approach would not achieve the objective of delivering a rolling five-year supply over the plan period. The SA concludes that the impacts of uplifts proposed are not so significant that the lower growth option should be preferred.

10. Settlement Allocations - Towns

- 10.1 Frome
- 10.2 Glastonbury
- 10.3 Street
- 10.4 Shepton Mallet
- 10.5 Wells
- 10.6 Midsomer Norton

10.6 Midsomer Norton & Radstock

- 10.6.1 The market towns of Midsomer Norton and Radstock immediately adjoin the northern boundary of Mendip District and fall within Bath and North East Somerset District. They have functional relationships with some villages in the wider rural catchment within the north of the district.
- 10.6.2 LPP1 Core Policy 2 identified an additional 505 dwellings as part of the adopted local plan requirement which was not allocated to a specific settlement. The 505 dwellings result from rolling forward the plan period to 2029 and the Review of Housing Requirements (2013) considered in the LPP1 examination. LPP1 Paragraph 4.21 explains that allocations should be in sustainable locations in accordance with the overall spatial strategy and may include land in the north/north-east of the district, primarily on land adjacent to the towns of Midsomer Norton and Radstock. LPP1 Paragraph 4.7 specifically identifies a need to consider allocations in Local Plan Part II in this part of the district to meet Mendip's development needs.
- 10.6.3 Following consideration of allocated housing allocations in line with the spatial strategy at the Local Plan examination and wider plan objectives, sites to provide 505 dwellings have been identified as a strategic requirement and were addressed through Main Modifications to this plan. LPP1 Paragraph 4.7 notes the need for consultation with Bath & NE Somerset (BaNES) and local communities which was undertaken through the LPP2 examination process and particularly the Main Modifications consultation.
- 10.6.4 The determination of planning applications on these sites will require joint working with BaNES in the assessment of proposals and impacts on infrastructure and planning gain arrangements. The education authority estimates that the allocations will require around 130 primary school places.
- Development Plan framework for Midsomer Norton & Radstock**
- 10.6.5 The Bath & North East Somerset Placemaking Plan sets out its strategy for the two towns. This strategy is to make provision for the development of the economic and community facilities needed to increase self-reliance and economic revitalisation.
- Community planning in Midsomer Norton & Radstock**
- 10.6.6 A Neighbourhood Area was designated for Midsomer Norton in November 2013 and a Neighbourhood Plan is in production. Radstock Town Council have also shown interest in developing a Neighbourhood Plan but as yet no formal application for a Neighbourhood Area has been made. A Neighbourhood plan was "made" for Westfield Parish in November 2018.
- Cross-Boundary Transport Issues**
- 10.6.7 Circa 1,000 dwellings have been built in Midsomer Norton & Radstock in the period 2011-2020. 417 more homes are committed within B&NES to be delivered by 2029,

and a further 455 dwellings are allocated by this Local Plan at Midsomer Norton in Mendip District. Development proposals must assess and mitigate the potential cumulative transport impacts which may arise from committed development, both within Mendip District and Bath and North East Somerset, through undertaking a cross-boundary transport impact assessment.

- 10.6.8 The cross-boundary transport impact assessment must take account of the committed and allocated development schemes in Midsomer Norton and Westfield, analyse traffic impacts on both links and junctions, and robustly assess the potential traffic effects of re-routing as a result of any additional congestion. Development proposals must identify mitigation to address the cumulative impacts of committed and allocated development and establish the proportionate impact of the application scheme to enable appropriate mitigation to be agreed with the Highways Authorities. Development proposals will need to assess their impact on the availability of town centre parking, as this remains of key importance to enabling access to the town centre for much of the rural hinterland, thus supporting access to facilities and the vitality of the town centre itself.
- 10.6.9 Detailed mitigation proposals will need to be identified and evidenced through the planning application process. In line with Climate Emergency declarations by both BaNES District Council and Mendip District Council, mitigation of impacts will need to be targeted at providing sustainable alternatives to car usage, with increases in highway capacity required only when opportunities to achieve mode shift to sustainable travel have been explored. Highway schemes will also need to address road safety and provide facilities for pedestrians and cyclists.
- 10.6.10 Each development should appropriately connect with the walking and cycling network, proactively support the delivery of the West of England Local Walking and Cycling Infrastructure Plan (LCWIP), including routes W05 and C05, and address local gaps in provision along routes likely to be used by future occupiers. Improvements to the pedestrian environment and public realm in Midsomer Norton town centre will be supported as making a positive contribution towards mitigation requirements. Public transport service enhancements will be important to address the risk of car-dependent development, potentially including proportionate measures to improve the attractiveness of the Odd Down Park and Ride site for trips into Bath.

Site Allocations

- 10.6.11 The following sites are allocated for development to meet housing needs in Mendip under the following policies:

MN1 - Land at White Post (HELAA site NRAD001M)

MN2 - Land at Underhill Lane (HELAA site NRAD004)

MN3 - Land east of the A367 (HELAA site NRAD005)

Development Limit

- 10.6.12 A development limit will be shown around the allocated sites on the policies map.

MN1: Land at White Post (HELAA Site NRAD001M)

Context

The site is 12.1 ha and consists of a large single field in open countryside on the fringe of Midsomer Norton. The field lies between the A367 Fosseway to the east and the B3355 Silver Street to the west. There is some limited built development to the south of the site including Norton Hall Farm on Silver Street and the White Post Inn on Fosseway. The northern boundary of the site is adjacent to a new housing development in the BaNES LPA area. A safeguarded recreation site under LPP1 Policy DP16 (Midsomer Norton Rugby Club) lies to the west on Silver Street.

Ecology

There is a well-established hedge line on the northern and eastern boundary of the site with mature trees. The site lies outside the Bat SAC consultation area but up to date surveys should be undertaken and there may be a need for bat mitigation. Development proposals should avoid loss of hedgerows and trees and strengthen their value as wildlife habitat. Biodiversity measures should deliver at least 10% net gain.

Landscape

The site lies on the edge of the built-up area. Development will have a degree of impact upon local landscape character and long-distance views. Proposals should take account of the wider landscape context and adjacent built development.

Heritage

The site does not lie within a Conservation Area or close to designated heritage assets. Advice from Somerset archaeology on a previous planning application noted presence of archaeological features with potential for additional investigation.

Highways

There are potential points of access onto Fosseway (A367) and to Silver Street (B3355). Parts of Silver Street are being upgraded, including with improved pedestrian/cycle infrastructure. Access arrangements should be independent of adjacent development to the north of the site. Particular regard should be given to access by walking and cycling and connectivity of the site to local facilities. A cross-boundary transport impact assessment (agreed with both Mendip and BaNES) and travel plan for the development will be required. This should consider the cumulative impacts on the highway network (including on the availability of town centre parking) of committed and allocated development in Midsomer Norton, including MN3. Mitigation proposals will need to be targeted and primarily seek to reduce car usage, including through providing local walking and cycling improvements, and measures to improve the attractiveness and connectivity of bus services. The transport impact assessment will need to determine the need for, and form of, highway capacity measures to mitigate the impact of the proposed development. Proportionate contributions will be sought towards mitigation demonstrated to be required to address severe cumulative impacts of committed development proposals.

Education

The site falls within the Chilcompton primary school catchment which is at capacity. However, the site is within statutory walking distance of St Benedict's Catholic Primary School (in Mendip District) which is located to the north east of the site between Fosseyway and Charlton Lane. This school is also near capacity but takes a high proportion of pupils from BaNES (80%). A new three form entry BaNES school (Norton Hill Primary) is being built just to the west of the site, within the B&NES boundary, and will be accepting new pupils from September 2020. This new school will also be within walking distance of this site. Joint working will be required between the councils and education authorities to accommodate the pupil numbers arising from the proposed development at MN1 and MN3. Development contributions may be needed to enhance local capacity or for travel to schools outside statutory walking distance.

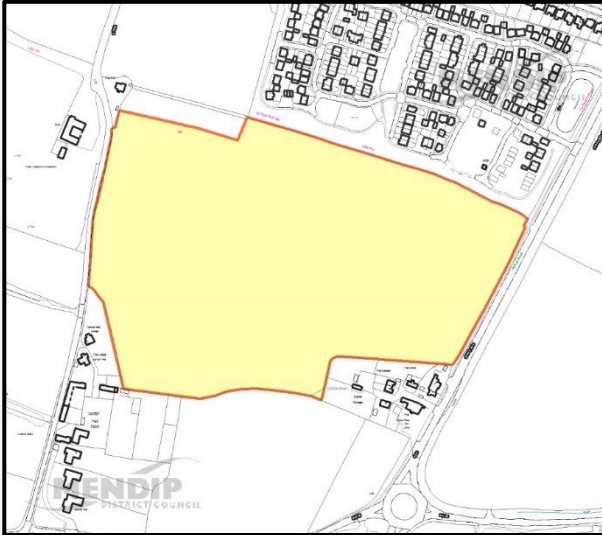
Flooding

The site lies within flood zone 1. There is a limited area of surface water flooding (low risk) on the NE boundary of the site. A flood risk assessment will be required to demonstrate surface water runoff can be managed through use of sustainable drainage (SuDs).

Policy MN1: Development Requirements and Design Principles

- 1. A minimum of 250 dwellings making provision for affordable housing in line with relevant policies.**
- 2. A cross-boundary Transport Impact Assessment will be required taking into account cumulative traffic impacts of this site, MN3, and other committed and allocated developments in Midsomer Norton. Mitigation for cumulative impacts will be required to be identified and delivered, proportionate to the impact of the scheme.**
- 3. Proposals should maximise opportunities for sustainable travel and make provision for connecting footpaths and cycleways to enhance the accessibility of the site.**
- 4. Development should have particular regard to site layout, building height, and soft landscaping, to minimise and mitigate the visual impact of the development in this edge of town location.**
- 5. The site should be designed to safeguard the amenity of neighbouring residential properties.**
- 6. Development should have regard to local materials and style.**
- 7. Opportunities should be taken to maintain and enhance biodiversity.**
- 8. An archaeological investigation of potential archaeological heritage assets should be undertaken and a report produced on any discoveries.**
- 9. Assessment of infrastructure impacts and contributions to be agreed jointly between BaNES and Mendip.**

Policy MN1: Land at White Post (HELAA Site NRAD001M)



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MN2: Land at Underhill Lane (HELAA Site NRAD003)

Context

The site is 2.1ha and lies on the western edge of Midsomer Norton to the rear of residential properties at Orchard Vale and the Woodside Estate to the south. It forms part of the established countryside edge of the town, is enclosed by protected woodland to the north and south and sits within the Wellow Brook Valley. The site is accessed through a narrow track from Underhill Lane although access to the land may be sought from Orchard Vale. The Woodside estate to the south of the site includes four storey buildings and there may therefore be some overlooking issues across the site.

Landscape & Ecology

The surrounding broadleaf woodland is locally distinctive in the immediate area and Underhill Wood is a designated Local Wildlife Site. The woods have value both as a local habitat (for flora) and a wider value along the valley (as a stepping stone in the wider ecological network). The site is likely to require a 5-15m wide buffer between development and woodland on the western and southern boundaries. The site lies outside the Bat SAC consultation area. The woods are also potentially used by lesser horseshoe bats and potentially for roosting Daubenton's bats given the proximity of the river to the north. Mitigation measures may be required to offset any potential impact to this habitat and should deliver at least a 10% biodiversity net gain.

Heritage

While the site does not lie within a Conservation Area or close to any designated heritage assets, any development should respect the local context and be sensitive to the location.

Highways

The existing access to the site from Underhill Lane is unlikely to be suitable and a more practical access would be via Orchard Vale. A suitable access will need to meet highways standards, including on width and visibility. Enhancement of connections to the town by all modes will also need to be considered. A Transport Impact Assessment will be required to assess impacts on the Local Road Network and mitigation measures may need to be agreed with BaNES.

Flood Risk

The site lies within flood zone 1. A flood risk assessment will be required to demonstrate surface water runoff can be managed through use of sustainable drainage (SuDs) and should take account flood risk associated with a watercourse which runs along the eastern boundary.

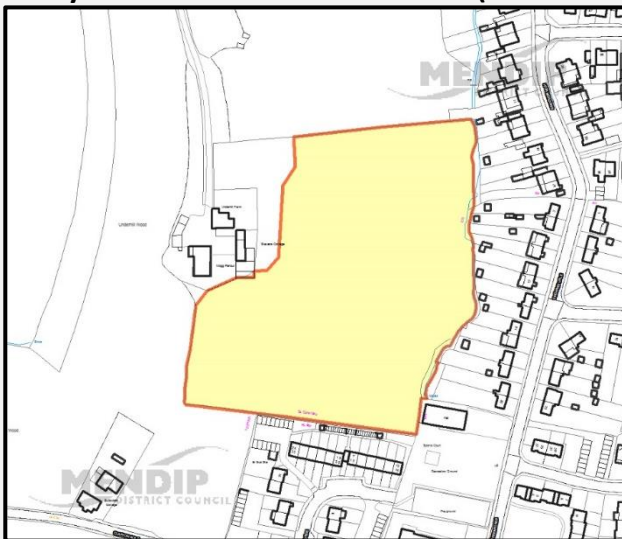
Education

The site is in the Chewton Mendip school catchment. There is short term capacity at this school although there are closer schools in BaNES. The impact on local school places in Midsomer Norton will require joint assessment and agreement of solutions with BaNES. Financial contributions may be required to mitigate the impact on local schools or funding for school transport.

Policy MN2: Development Requirements and Design Principles

- 1. A minimum of 60 dwellings making provision for affordable housing in line with relevant policies.**
- 2. Provision of a safe and suitable access to highway standards from Orchard Vale and provision of connecting footpaths and cycleways to enhance the accessibility of the site. Transport mitigation requirements will need to be determined through Transport Assessment and agreed with the Highways Authorities.**
- 3. Have particular regard to site layout, building height, and soft landscaping, to minimise and mitigate the visual impact of the development.**
- 4. A buffer area and mitigation measures will be needed to protect the wildlife value of surrounding broad-leaved woodland. Opportunities should be taken to maintain or enhance biodiversity.**
- 5. The layout should be designed to safeguard the amenity of neighbouring residential properties and have regard potential overlooking issues from properties on the Woodside estate.**
- 6. Assessment of infrastructure impacts and contributions to be agreed jointly between BaNES and Mendip.**
- 7. Consideration of potential impacts upon surface water flooding.**
- 8. Development which has regard to local materials and style.**

Policy MN2: Land at Underhill Lane (HELAA Site NRAD003)



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MN3: Land east of the A367 (HELAA Site NRAD005)

Context

The site is 6.5ha and is part of the countryside edge of Westfield, which forms part of the urban area of Norton Radstock. The northern boundary of the site is adjacent to the built up area of Westfield. The western boundary lies on the opposite side of the A367 Fosseway to a new housing development within B&NES.

Landscape

The site lies on the edge of the built-up area. Development will have a degree of impact upon local landscape character and long-distance views. Proposals should take account of the wider landscape context and adjacent built development.

Ecology

There is a well-established hedge line on the western boundary of the site. The site lies on the periphery of the Mells Valley SAC Bat Consultation Area (Band C). Development should incorporate specific requirements for bat mitigation, minimise loss of hedgerows and trees and strengthen the value of the site overall and its existing features as wildlife habitat. Biodiversity measures should deliver at least a 10% net gain.

Heritage

While the site does not lie within a Conservation Area or close to any designated heritage assets, any development should respect the local context and be sensitive to the location.

Highways and Connectivity

The principal access will be from A367 (Fosseway). A cross-boundary traffic impact assessment (both Mendip and B&NES) and travel plan for the development will be required. This should consider the cumulative impacts on the highway network (including on the availability of town centre parking) of committed and allocated development in Midsomer Norton, including MN1. Mitigation proposals will need to be targeted and primarily seek to reduce car usage, including through providing local walking & cycling improvements, and measures to improve the attractiveness and connectivity of bus services. The transport impact assessment will need to determine the need for, and form of, highway capacity measures to mitigate the impact of the proposed development. Proportionate contributions will be sought towards mitigation demonstrated to be required to address severe cumulative impacts of committed development proposals.

Education

This site falls within the Kilmersdon primary school catchment which is at capacity. However, the site is within 300m of St Benedict's Catholic Primary School (in Mendip District) which is located to the north. This school is also near capacity but takes a high proportion of pupils from BaNES (80%). A new three form entry BaNES school (Norton Hill Primary) is under construction within walking distance of the site and will be accepting new pupils from September 2020. Joint working will be required between the councils and education authorities to accommodate the pupil

numbers arising from this allocation Development contributions may be needed to enhance local capacity or for travel to schools outside statutory walking distance.

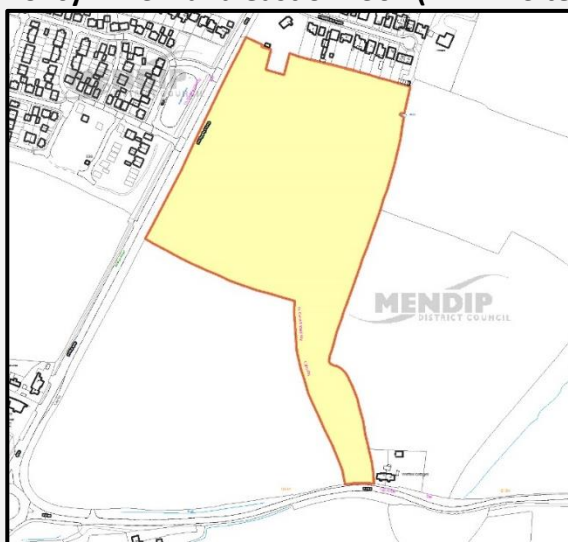
Flood Risk

The site lies within flood zone 1. A flood risk assessment will be required to demonstrate surface water runoff can be managed through use of sustainable drainage (SuDs).

Policy MN3: Development Requirements and Design Principles

1. A minimum of 145 dwellings making provision for affordable housing in line with relevant policies.
2. A cross-boundary Transport Impact Assessment will be required taking into account cumulative traffic impacts of this site, MN1, and other committed and allocated developments in Midsomer Norton. Mitigation for cumulative impacts will be required to be identified and delivered, proportionate to the impact of the scheme.
3. Proposals should maximise opportunities for sustainable travel and make provision for connecting footpaths and cycleways to enhance the accessibility of the site.
4. Development should have particular regard to site layout, building height and soft landscaping, to minimise and mitigate the visual impact of the development in this edge of town location and on long range views.
5. The site should be designed to safeguard the amenity of neighbouring residential properties.
6. Development should have regard to local materials and style.
7. Provisionally 0.4 ha of bat replacement habitat for should be included within the development site alongside any other required mitigation measures.
8. Opportunities should be taken to maintain and enhance biodiversity.

Policy MN3: Land east of A367 (HELAA Site NRAD005)



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11 Settlement Allocations - Villages

- 11.1 Baltonsborough
- 11.2 Beckington
- 11.3 Binegar & Gurney Slade
- 11.4 Butleigh
- 11.5 Chewton Mendip
- 11.6 Chilcompton
- 11.7 Coleford
- 11.8 Coxley
- 11.9 Croscombe
- 11.10 Ditchheat
- 11.11 Doultong
- 11.12 Draycott
- 11.13 Evercreech
- 11.14 Faulkland
- 11.15 Holcombe
- 11.16 Kilmersdon
- 11.17 The Lydfords
- 11.18 Meare and Westhay
- 11.19 Mells
- 11.20 Norton St Philip
- 11.21 Nunney
- 11.22 Oakhill
- 11.23 Rode
- 11.24 Stoke St Michael
- 11.25 Walton
- 11.26 West Pennard
- 11.27 Westbury sub-Mendip
- 11.28 Wookey
- 11.29 Wookey Hole

11.2 Beckington

- 11.2.1 Beckington is a village of some 360 homes with a population of approximately 900 people. Being three miles from Frome, and close by the A36, it is well connected by road. The village is situated on the east side of the valley of the River Frome with the core sited on a fairly level platform above the river's flood plain, between low rounded hills to the north and south. Bath Road forms the spine of the village. Church Hill climbs steeply from its northern end and the Parish Church is situated at a high point above the main part of the village.

Site Allocations

- 11.2.2 Beckington is identified in LPP1 as a Primary Village with a minimum housing requirement of 55 dwellings in Policy CP2. Completions and committed development in the plan period to date totals 108 dwellings, a 30% increase to dwelling stock. Given this level of growth, no sites were allocated in Beckington in the Submission plan. Following the examination hearings, additional allocations are necessary to make the plan sound, specifically to address the requirement in Policy CP2 to provide 505 dwellings located adjacent to Midsomer Norton and Radstock and in settlements in the north/northeast of the district.
- 11.2.3 A site south of Great Dunns Close has been identified as a sustainable location although outside adopted development limits. A development proposal on this site was refused on appeal on this site in 2018 but established that settlement infrastructure constraints could be overcome. It is considered deliverable as a medium term site.
- **Land south of Great Dunns Close is allocated for residential development under Policy BK1**

Education

- 11.2.4 The village school is near capacity and not capable of expansion. However, roll numbers are predicted to fall in the medium term. Financial contributions for education may be required for transport to alternative schools depending on the timing of development.

Highways

- 11.2.5 The Highways Agency have identified capacity issues on both A36 roundabouts which link to the village. Development proposals are subject to Policy DP27 - Highway Infrastructure Measures for Frome, Beckington and Rode'. Major proposals which require a traffic impact assessment will need to take this into account and may be subject to development contributions to support strategic highway infrastructure.

Drainage and Sewage Infrastructure

- 11.2.6 A comprehensive drainage review was undertaken in 2020 in the village to address long-standing issues relating to surface water, highway and sewer flooding in high rainfall in the village. This identifies a range of measures to reduce flood risk and provide capacity for surface water and sewage flows.

Windfall Sites

- 11.2.7 Beckington continues to have an identified development limit. Over the lifetime of the plan, additional small-scale development can potentially come forward within this boundary.

Development Limit

- 11.2.8 Changes to the development limit have been made to reflect committed development. There are four significant sites which have planning permission which have now been included within the development limits - south of Warminster Road, north of Warminster Road, off Bath Road and at Mill Lane.

BK1: Land off Great Dunns Close, Beckington (HELAA site BECK023)

Context

The site is 1.2 ha and consists of fields adjacent to a recent development at Great Dunns Close. There is development to the north, west and south and a hotel to the north east. As such it is well contained and does not have extensive views of the countryside. The site is central to the village and close to village amenities. The site is in relative proximity to a junction of the A36.

Highways

Access is proposed via the recently completed development to the north. The development at Great Dunns Close has footpaths which connect to the existing network on Bath Road. The allocation should link with the surrounding footpath network.

Landscape & Ecology

There is a prominent hedgerow with trees which is central to the site. The site lies entirely within Band C for Greater Horseshoe bats from both the Mells Valley SAC and the Bath and Bradford on Avon Bats SAC. Therefore, some mitigation will be necessary.

Heritage

Development should respect the local context and be sensitive to the location. The Beckington Conservation Area lies to the south of the site and eight listed buildings are in close proximity. A buffer of green space should be provided to protect the setting of the heritage assets, having regard to the landform which rises northwards from the Conservation Area boundary.

Flood Risk and Drainage

Surface water drainage and sewer capacity in the village is under review and work is ongoing to establish capacity. Development proposals will need to demonstrate drainage capacity can be accommodated without a detrimental impact on the wider settlement and will need to work with relevant agencies and utilities providers. A limited area of medium surface water flood risk lies adjacent to the site.

School Infrastructure

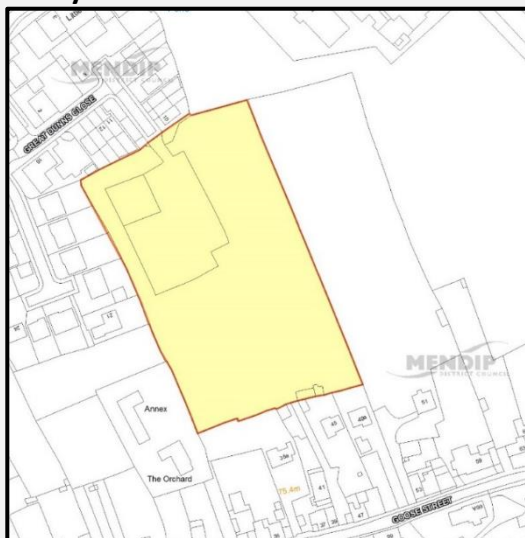
Beckington First School is within the village and has a capacity of 88 pupils. It is currently near capacity and has no ability to expand, although by 2023 numbers are expected to fall and more places will be available. Depending on the timing of development, there may be capacity to accommodate the pupils from the allocation. Development contributions may be required for transport to alternative schools.

Policy BK1: Development Requirements and Design Principles

- 13. A minimum of 28 dwellings, making provision for affordable housing in line with relevant policies.**
- 14. Have particular regard to site layout, building height and soft landscaping, to minimise the visual impact of the development and to respect the rural character of the locality.**

15. Proposals should preserve and enhance the significance and setting of heritage assets in the adjoining Conservation Area.
16. New development should have regard to local materials and style.
17. The site should be designed to safeguard the amenity of neighbouring residential properties.
18. Provisionally 0.22 ha of bat replacement habitat should be included within the development site alongside any other required mitigation measures.
19. An assessment of local and cumulative traffic impact on the A36 will be required with provision of contributions or mitigation measures in agreement with the highways authority.
20. Proposals will need to demonstrate surface drainage and sewage capacity can be accommodated without a detrimental impact on the settlement.

Policy BK1: Land south of Great Dunns Close



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11.9 Crocombe

11.9.1 Crocombe is a small village of some 250 homes that lies in the valley of the River Sheppey. Its historic centre contains many buildings of great character, including the Church of St Mary the Virgin with its unusual spire.

11.9.2 Crocombe is characterised by its topography, situated in a steep sided valley with important public views from surrounding hillsides. The steep sides of the valley lead to pasture and woodland, much of which is of great environmental significance.

Site Allocations

11.9.3 Crocombe is designated in the LPP1 as a Primary Village. It is expected to deliver at least 35 new homes over the Local Plan period 2006-2029, a level which takes into account its topographical constraints. A further 15 homes are still to be delivered. A small site has been included within an extension to development limits at Coombeside, which could provide up to 5 new homes. The remaining 10 homes might be expected to come from infilling within the development limits.

Windfall Development

11.9.4 Crocombe continues to have an identified development limit. Therefore, over the lifetime of the plan additional small scale development can potentially come forward within this boundary.

Development Limit

11.9.5 The following amendments are proposed to the development limit:

- Minor extension west of Rookery Lane to reflect committed development.
- Amendment to the development limit east of Boards Lane to reflect committed development. This extension also includes site CROS014 in order to draw a logical development limit line and provide for up to 5 homes.

11.13 Evercreech

- 11.13.1 Evercreech is a large village around 3 miles south of Shepton Mallet. It is closely related to the smaller settlement of Stoney Stratton to the east. The southern part of the village around Queens Road and the Church is designated as Conservation Area and there are numerous listed buildings. There are more modern housing areas particularly to the north of the village, and an active employment site at Leighton Lane.

Site Allocations

- 11.13.2 LPP1 designated Evercreech as a Primary Village. It is expected to deliver a minimum of 70 new homes in the plan period. Recent years have seen significant development. Completion and consent levels from 2006-2017 have been very high at 161 homes. This is significantly more than the planned level of development for the village therefore there is no residual level of development to be delivered through LPP2. In line with this strategy no sites have been allocated in Evercreech.

- 11.13.3 The Greencore site in Evercreech closed in 2018. This is identified as an established employment site in this Plan under Policy DP25 and should be retained and re-marketed for employment uses in accordance with the policy. Alternative uses will only be considered acceptable once its re-use for employment has been fully explored to the satisfaction of the Council. Proposals for alternative uses of the site should focus on a mixed-use scheme and come forward through a development brief to be prepared with close engagement of the Parish Council, making provision for employment uses and community facilities. A mixed-use proposal including residential development will need to include phosphate mitigation.

Infrastructure

- 11.13.4 The village school has a deficit of places. Contributions for education may be sought from proposed developments in this area.

Windfall Development

- 11.13.5 Evercreech continues to have an identified development limit. Therefore, over the lifetime of the plan additional small scale development can potentially come forward within this boundary.

Development Limit

- 11.13.6 The following amendments have been made to the development limit:

- Amend to include recent development at Horsehill Farm.
- Amend development limit to reflect the development of the primary school and deletion of OALS001 (a correction from the previous District Local Plan 2001).

11.14 Faulkland

- 11.14.1 Faulkland is a small village that lies within the parish of Hemington, close to Radstock and Midsomer Norton in Bath and North East Somerset.
- 11.14.2 Historically the village has been characterised by farming and coal mining. The A366 runs through the village.

Site Allocations

- 11.14.3 Faulkland is identified in LPP1 as a Secondary Village and because of the small size of the village and its rural character future housing numbers in the village were limited to 20. Recent years have seen high levels of development. Completion and consent levels from 2006-2017 have resulted in 36 homes being delivered. Therefore, there is no residual requirement to be delivered through LPP2. No sites have been allocated in Faulkland.

Windfall Development

- 11.14.4 Faulkland continues to have an identified development limit. Therefore, over the lifetime of the plan additional small scale development can potentially come forward within this boundary.

Development Limit

- 11.14.5 No amendments are proposed to the development limits other than to reflect committed development. There are two sites which have planning permission which are included in development limits south of West Farm and between Oaklea and Faulkland Farm. There is also a small change to include existing buildings at Ashgrove and The Beeches.

11.18 Meare & Westhay

- 11.18.1 Meare & Westhay lie to the west of the district close to the towns of Glastonbury & Street. Together they represent a significant sized settlement. They sit upon the Somerset Levels – an area at significant risk of flooding as well as being an important area for protected birds. The surrounding areas are also characterised by the history of peat working.
- 11.18.2 Meare & Westhay lie within the Westhay-Meare Island Landscape Character Area - a low ridge which contrasts with the neighbouring moors. Fields are generally small and hedged and fragments of orchards can be found around the settlements.

Site Allocations

- 11.18.3 LPP1 identified Meare & Westhay as a Secondary Village with a requirement for 40 homes over the plan period. As of 31st March 2017, 99 homes had either been completed or consented, more than double the requirement. There is therefore no need to allocate a site in Meare and Westhay.

Windfall Development

- 11.18.4 Meare & Westhay continue to have an identified development limit. Therefore, over the lifetime of the plan additional small scale development can potentially come forward within this boundary.

Development Limit

- 11.18.5 The development limits have been altered to reflect committed development to the south of The Levels and Bramble Close and at Chestnut Farm.

11.20 Norton St Philip

- 11.20.1 Norton St Philip is a medium sized village located 12km (9 miles) south of Bath and 11km (8 miles) north of Frome, situated around the junction of the A366 Wells to Trowbridge road and the B3110 route, about 1.5km west of the A36 (T) main route from Bath to Warminster. It occupies an elevated position on a pronounced west-facing ridge overlooking the valley of Norton Brook. The village's position on a ridge and down its western slopes, means that it dominates its immediate surroundings and is visible from lower ground to the west. There are many older and listed buildings and much of the village is Conservation Area. The older buildings of High Street and The Plain form a strong skyline when viewed from the lower ground. The village lies adjacent to an area designated as the Bath & Bristol Green Belt.

Community Planning

- 11.20.2 A Neighbourhood Plan for the Parish Area of Norton St Phillip was submitted and examined in June/July 2019.

Site Allocations

- 11.20.3 Norton St Philip is identified in LPP1 as a Primary Village with a minimum housing requirement of 45 dwellings in Policy CP2. Completions and committed development in the plan period to date totals 105 dwellings, a 34% increase to dwelling stock. Given this level of growth, no sites were allocated in this village in the Submission plan. Following examination hearings, additional allocations were necessary to make the plan sound, specifically to address the requirement in Policy CP2 to provide 505 dwellings located adjacent to Midsomer Norton and Radstock and in settlements in the north/northeast of the district.
- 11.20.4 Land to the east of the Fortescue Fields development, off Mackley Lane, is identified as a suitable location for additional development. This location is not subject to designations in the Neighbourhood Plan. The land is outside but adjacent to the adopted development limit.
- **Land off Mackley Lane is allocated for residential development under Policy NSP1 (27 dwellings)**

Windfall Development

- 11.20.5 Norton St Philip continues to have an identified development limit. Therefore, over the lifetime of the plan, additional small scale development can potentially come forward within this boundary.

Development Limit

- 11.20.6 The development limit has been amended than to reflect committed development at Longmead Close and to reflect existing development on the southern edge of Fortescue Fields.

NSP1: Land off Mackley Lane (HELAA sites NSP013 and NSP16)

Context

This site is 1.1 ha and lies outside of development limits to the south of the village, north west of Mackley Lane. It is a greenfield site consisting of fields and is adjacent to the Fortescue Fields development. It borders the B3110 and there is other residential development on the opposite side of this road. The land is raised above the level of surrounding road.

Highways

The site adjoins Mackley Lane with the potential for a suitable access from here. There is also potential to access the Laverton Triangle section of the site from Fortescue Fields. Mackley Lane is currently a lightly used rural lane and the need for improvements, including the junction with Townsend, should be considered. There are currently no footpath links and no footways on Mackley Lane. There is potential to link into the local footpath network and to provide convenient access to local facilities, including the playing field and school.

Landscape & Ecology

The north eastern part of the site is considered to be visually important - a gateway to the village and important to its setting. A bank of newly planted trees is also identified as important to the character and setting of the village and has the potential to reduce the sense of buildings being an incursion into open countryside. It would be necessary to retain the appearance of countryside at this gateway in order to mitigate the impact of development.

The south western part of the site is on the slopes forming the southern edge of the ridge on which Norton St Philip sits. Although the landscape setting on the ridge is important to the character of the village, the slopes here are less prominent than in other parts of the village.

The site lies within the outer area (Band C) of the Mells Valley and Bradford on Avon Bat consultation zones. Appropriate mitigation measures will be required.

Affordable Housing

A village survey has identified a need for an affordable housing format that allows for purchase as well as rental. Affordable housing formats that allow an element of purchase should be considered.

Heritage

Development should respect the local context and be sensitive to the location. The Norton St Phillip Conservation Area covers part of the Laverton Triangle site.

Flood Risk / Drainage Infrastructure

There is no known flood risk on the site. There has been significant development in the village in recent years and therefore it is possible that additional development will require drainage capacity improvements.

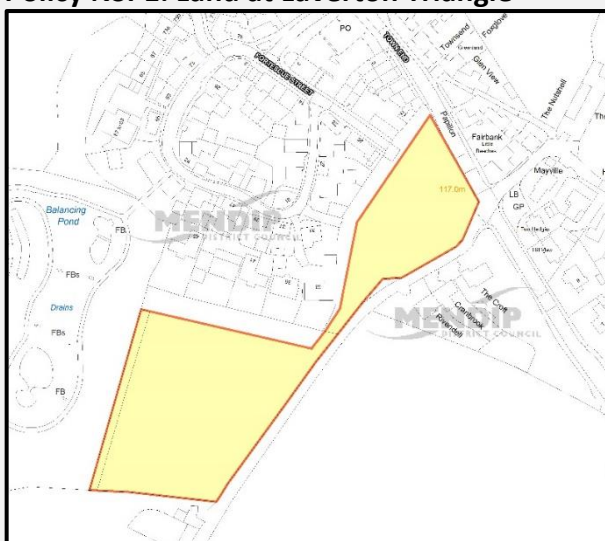
School Infrastructure

Norton St Philip is served by both Norton St Philip First School and Rode First School. Middle school provision is in Frome. At present, both of the First schools are relatively full but not at capacity. The number of pupils on the school roll is expected to fall over the next five years. Therefore, it is likely that the school would be able to accommodate growth from the identified allocation.

Policy NSP1: Development Requirements and Design Principles

1. A minimum of 27 dwellings (7 on Laverton Triangle and 20 on land to the south), making provision for affordable housing in line with relevant policies.
2. Have particular regard to site layout, building height and soft landscaping, to minimise the visual impact of the development, respect the rural character of the locality and maintain the Laverton Triangle's role as a feature at this gateway to the village. In particular the belt of trees on the site should be retained. Regard should be had to the elevation of the site compared to surrounding land.
3. Proposals should preserve and enhance the significance and setting of heritage assets in the adjoining Conservation Area. Creating an appearance of countryside on the northern edge of the site will be important to the setting of the Conservation Area.
4. New development should have regard to local materials and style.
5. The site should be designed to safeguard the amenity of neighbouring residential properties.
6. Opportunities should be taken to maintain and enhance biodiversity in any scheme. Provisionally 0.24 ha of bat replacement habitat should be included within the development site alongside any other required mitigation measures.
7. Links should be made to the local footpath network, to provide convenient access to village facilities, including the recreation ground and the school.
8. Safe access should be provided to the site from Mackley Lane, and at the junction between Mackley Lane and Townsend.

Policy NSP1: Land at Laverton Triangle



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11.23 Rode

- 11.23.1 Rode is a larger village in Mendip around five miles north-east of Frome and five miles south-west of Trowbridge. It is the easternmost settlement in Mendip lying within a mile of the Wiltshire border. It lies close to the junction of the main A36 (Bath – Salisbury) and the A361. There are two distinct clusters of development, with the medieval church and several old houses situated on the A361 and the main part of the village offset to the north, between the two main roads. The River Frome flows immediately to the west of the village, with a historically important crossing point at Rode Bridge. A large part of the village is designated as a Conservation Area and there are numerous listed buildings.

Community Planning

- 11.23.2 A Neighbourhood Plan for the village was ‘made’ in 2017.

Education

- 11.23.3 Rode is served by both Rode First School and Norton St Philip First School. Middle school provision is in Frome. Both of the First schools are relatively full but not at capacity. The number of pupils on the First school roll is expected to fall over the next five years. Financial contributions could be sought to provide additional capacity.

Highways

- 11.23.4 The Highways Agency have identified capacity issues on both A36 roundabouts which link to the village. Development proposals are subject to Policy DP27 - Highway Infrastructure Measures for Frome, Beckington and Rode. Major proposals which require a traffic impact assessment will need to take this into account and may be subject to development contributions to support strategic highway infrastructure.

Site Allocations

- 11.23.5 Rode is identified in LPP1 as a Primary Village with a minimum housing requirement of 65 dwellings in Policy CP2. Completions and committed development in the plan period to date total 79 dwellings, an 18% increase to dwelling stock. Given the level of growth above minimum requirements, no sites have been allocated in this village.

Windfall Development

- 11.23.6 Rode continues to have an identified development limit. Therefore, over the lifetime of the plan additional small-scale development can potentially come forward within this boundary.

Development Limit

- 11.23.7 Amendments to the development limits have been made to reflect committed development and to reflect minor alterations made by the Neighbourhood Plan. This

includes a site under development at Church Farm and an amendment at Church Lane.

Local Green Spaces

- 11.23.8 The Neighbourhood Plan has designated the following sites as Local Green Spaces and they are shown for information only:

LGSRODE001 front of Langham House

LGSRODE002 Rode Village Green

LGSRODE003 Browns Ground

LGSRODE004 Recreation Ground

LGSRODE005 Pathway to Rockabella

LGSRODE006 Greenway to Beckington

Existing Employment Areas

- 11.23.9 There is an existing employment area at Claygate Lane which was relocated from Church Farm.

11.25 Walton

11.25.1 Walton is a large village of around 400 homes lying between the Somerset Levels and the Polden Hills. Walton lies within the Polden Ridge Landscape Character Area. This area is characterised by the large open fields which surround the village.

11.25.2 The village is bisected by the A39 which is a key route connecting the district to the M5. A safeguarded route for a bypass to the north of Walton is shown in the adopted plan.

Neighbourhood Plan/Wider Parish Area

11.25.3 The Parish is a designated Neighbourhood Plan Area. The wider Parish area includes the strategic housing site west of Street and associated land identified as Future Growth Area. The proposals for the land west of Street are included in the Street section in Policy ST3 and shown on the map on Page 73.

Site Allocations

11.25.4 LPP1 identifies Walton as a Secondary village with a requirement for 40 homes over the plan period. As of 31st March 2017, 54 homes had either been completed or consented. This is more than the planned level of development for the village. There is a no residual level of development to be delivered through LPP2. No sites have therefore been allocated in Walton.

Windfall Development

11.25.5 Walton continues to have an identified development limit. Therefore, over the lifetime of the plan additional small scale development can potentially come forward within this boundary.

Development Limit

11.25.6 No amendments have been made to the development limits.

11.28 Wookey

- 11.28.1 Wookey is large village with approximately 1,300 residents and 300 homes. It lies on the River Axe and while served only by minor roads, lies approximately 750m to the A371 and good connections with Wells. There are numerous listed buildings and the scheduled ancient monument at Court Farm which influence the character of the village. There are also areas of more modern housing to the north and west of the village.

Site Allocations

- 11.28.2 Wookey was identified in LPP1 as a Secondary Village and was expected to deliver a minimum of 40 homes during the plan period. There have been large amounts of development in the village in recent years with 68 homes built or approved to date. This is significantly more than the planned level of development for the village. There is no residual level of development to be delivered through LPP2. In line with this strategy no sites have been allocated in Wookey.

Windfall Development

- 11.28.3 Wookey continues to have an identified development limit. Therefore, over the lifetime of the plan additional small scale development can potentially come forward within this boundary.

Development Limit

- 11.28.4 The development limit has been amended to include development permitted at Henley Lane and Chapman's Close.

Appendix 1:

Mendip Local Plan Parts I and II: Glossary of Terms

While the Policy team endeavour to make the Local Plan as clear as possible, the wide-ranging nature of development plans and policy requirements makes it difficult to avoid technical terms. A number of key terms used in Local Plan Parts I and II are below. Please also refer to the definitions in the NPPF Annex 2: Glossary. The schedule will be kept up-to-date as far as possible and was last updated in September 2021 and includes changes recommended in the Inspector's Report.	
Adoption	The final confirmation of a Development Plan or one of its subsidiary parts by a local planning authority (LPA) bringing it into formal use. Policies and proposals carry full weight in planning decisions from this stage.
Accessible Natural Greenspace Standards (ANGst)	A set of standards to ensure that everyone, no matter where they live, has access to an accessible natural greenspace.
Affordable Housing	Housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions: a) Affordable housing for rent b) Starter homes c) Discounted market sales housing d) Other affordable routes to home ownership A full national definition is set out in the National Planning Policy Framework - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf
Affordable in perpetuity	Housing which is subject to a legal restriction to remain 'affordable' forever.
Allocation	Land identified for development in the Local Plan. Allocations are subject to specific policies which will be significant in determining a planning application.
Amenity	Those qualities of life enjoyed by people who can be influenced by the surrounding environment in which they live or work. 'Residential amenity' includes, for example, a reasonable degree of privacy, freedom from unacceptable levels of noise, air and light pollution.
Ancillary	Use or structure which is related to and often found in association with primary use or development. For the purposes of planning, ancillary uses that are materially different would typically be tolerated up to 15% of a wider site area e.g. a trade counter (retail use) within a larger warehouse (distribution use).
Authority's Monitoring Report (AMR)	A report produced by the Council to monitor planning policies and determine whether they are being effectively implemented.
Area Action Plan (AAP)	A type of Development Plan Document focused upon a specific location or an area subject to conservation or significant change (for example major regeneration).
Area of Outstanding	A statutory landscape designation to recognise, conserve and enhance landscape of national importance.

Natural Beauty (AONB)	
Areas of High Architectural Potential (AHAP)	Areas identified on the Policies Map as most likely to contain important archaeological features. Where ground disturbance is expected as part of a development within an AHAP, an archaeological assessment will usually be required.
Aquifer	Underground layer (stratum) of rock in which water naturally occurs. Water for human use may be extracted by means of wells or boreholes.
Bat Consultation Zone (Band A/B/C)	Locations considered to have a potentially significant effect on horseshoe bat roosts / feeding areas. Development allocations in a local plan area must be assessed for their impact and subject to assessment under Habitat Regulations.
Biodiversity	The existence of a wide variety of plant and animal species living in their natural environment.
Biodiversity Action Plan (BAP)	An internationally recognised program addressing threatened species and habitats, designed to protect and restore biological systems. Biodiversity Action Plans are prepared at various geographic scales. Mendip has a Biodiversity Action Plan (BAP) that outlines which important species and habitats have been prioritised in the district for protection and enhancement.
Built Environment	Surroundings which are generally built up in character. The collection of buildings, spaces and links between them which form such an area.
Call for Sites	Where the Local Planning Authority invite individuals, organisations and developers to submit details of land or sites they wish to be considered for development. These sites form the basis of the HELAA assessments.
Climate Change	Refers to changes in the earth's climate, especially the gradual rise in temperature caused by high levels of carbon dioxide and other gases.
Committed Development	Land with a current planning permission or an allocation in an adopted Local Plan where there is a reasonable degree of certainty that development will proceed.
Community Facilities	Services available to residents in the immediate area to meet the day-to-day needs of the community. Includes village halls, post offices, doctors and dentist surgeries, recycling facilities, libraries and places of worship, as well as commercial services and open spaces.
Community Infrastructure Levy (CIL)	A charge made on new development (calculated per sq metre of additional floorspace) and used to support local infrastructure. The process of setting charges must go through local consultation and examination to ensure they are set at a level which does not prevent development.
Comparison Goods	Defined as household or personal items which are bought on an infrequent basis and typically would involve the buyer comparing alternative styles/prices/types. Would generally include products like clothing, electrical goods and furniture amongst many other things. Also see Convenience Goods.
Conservation Area	An area of special historic and/or architectural interest which is designated by the local planning authority as being important to conserve and enhance. Special planning controls apply within these areas.
Convenience Goods	Items bought for everyday needs. Includes food and other groceries, newspapers, drink and tobacco and chemist goods. Generally such goods are used or consumed over a relatively short period. Also see Comparison Goods.
Core Area (ecological network)	One component of an ecological network (the other components are corridors and buffer zones). They have a high nature conservation value. They are connected to each other with corridors and surrounded by buffer zones which serve as a protection from possible disruptive external influences.
Core Strategy	A Development Plan Document forming the central part of a Local Development Framework under regulations that existed between 2004 and 2011. It sets out the spatial vision and strategic objectives of the planning framework for an area, having regard to the Community Strategy. Local Plan Part I is an evolved version of a Core Strategy.

County Wildlife Site	Wildlife habitat identified and designated as being of particular local interest of importance but is not of sufficient national merit to be nationally designated as, for example, an SSSI.
Curtilage	The area of land associated with a building. The curtilage of a dwelling house is the land immediately surrounding it, including any closely associated buildings and structures.
Culturally Significant Landscape	A landscape, modified, natural or built, that retains physical attributes of past interventions that are of significance. Examples include deer parks, deserted settlements and large-scale water management systems.
Co-housing	Semi-communal housing consisting of private homes clustered around shared space.
Custom build	Where an individual or group commissions a new home for their own occupation.
Development	Defined in planning law as ‘the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of a material change of use of any building or land’ (see also Permitted Development).
Development Brief	A document that outlines how a site will be developed. It will set out an analysis of site context, development principles, design solutions and details about matters of implementation. It will contain maps and diagrams to articulate the issues and solutions proposed. Also see Supplementary Planning Document.
Development Contribution/ Commuted Payment	Either a payment made by a developer to the local planning authority (usually secured by means of a Planning Obligation) to fund provision of a facility needed to serve a development, but to be built or provided elsewhere or in some way other than by the developer, or a one off payment by a developer to another body to enable it to adopt a facility.
Development Management Policies	A suite of criteria-based policies to ensure that all development within the area meets the spatial vision and spatial objectives.
Development Plan	A statutory document setting out the local planning authority’s policies and proposals for the development and use of land and buildings. It is the starting point for the determination of planning applications as set out in the National Planning Policy Framework.
Development Plan Document (DPD)	A local planning policy document that has development plan status by virtue of being prepared subject to community involvement and independently examined.
Dispersal Area (ecological network)	An area that can be crossed easily by a protected or other species from a core area of habitat when moving out into the wider landscape.
Duty to Cooperate	Government policy setting out a duty to work jointly with other bodies and neighbouring authorities to ensure that strategic priorities are properly coordinated across local boundaries.
Early Engagement	A very early stage of consultation and community involvement, when interested parties can help formulate and comment on aspects of the local authority’s future planning proposal. Early engagement is also an important part of any development proposal in that a developer can explore local people’s views before designing a new development which in turn can then, potentially, be more responsive to local conditions.
Ecological Network	A group of habitat patches that species can move easily between, thereby maintaining and conserving biodiversity. See also Core Area (ecological network).
Employment Land	Employment land includes the following types of premises: • Traditional employment land uses where impact on site noise, disturbance and building scale would warrant specific land provision. This includes storage and distribution uses, construction yards, bulk processing and larger scale manufacturing uses; • Town centre uses such as offices, hospitality, retail and leisure uses; • Commercial uses such as motor trade uses, research and development and property management activities.

Environmental Statement	A written statement that is required to be submitted by the applicant with certain kinds of planning application.
Established Employment Areas	Established Employment Areas include a range of uses (industrial, commercial, sui generis and retail) but exclude freestanding supermarkets.
Evidence Base	The information and data gathered by local authorities to justify the “soundness” of the policy approach set out in Local Development Documents, including physical, economic, and social characteristics of an area.
Exception Site	A site that is granted planning permission as an exception to Local Plan policy for a particular reason. It usually refers to a site with permission granted for affordable housing outside development limits on the basis that the housing will remain affordable.
Exception Test	In addition to the Sequential Test, and in accordance with national policy, this test seeks to consider exceptional circumstances why a particular development would be acceptable in an area that is acknowledged to be subject to flood risk. Also see Sequential Test (flooding).
Extant	Usually refers to a planning permission which has yet to start.
Favourable Conservation Status	European Habitats Directive definition requiring that habitats have sufficient area and quality, and species have a sufficient population size, to ensure their survival into the medium to long term, along with favourable future prospects in the face of pressures and threats.
Flood Risk Assessment	An assessment of the likelihood of flooding in a particular area so that development needs and mitigation measures can be carefully considered.
Five Year Housing Supply	An estimate of the additional dwellings predicted to be built over a five year period against the annual housing requirement in the Local Plan plus a 5,10 or 20% buffer. Where an adopted Local Plan figure is more than five years from adoption, the requirement is based on Local Housing Need calculated through a national standard method. The five year supply figure is updated each year.
Future Growth Area	Land identified as being suitable to accommodate housing or employment use that cannot come forward immediately due to development issues still needing to be explored.
Future Transport Plan (FTP)	The Somerset Future Transport Plan sets out the long term strategy for getting the best from transport. It describes transport issues and the policies and investments needed to tackle them. The current plan covers the period 2011-2026.
Green Belt	An area of land defined by national policy to protect countryside around larger urban centres from urban development.
Greenfield Land	Open land which has not previously been developed. Agricultural buildings, urban gardens and former industrial areas which have blended back into the landscape are also greenfield.
Groundwater Source Protection Zones	Zones which limit the use of land for purposes which might result in contamination of groundwater.
Habitat Regulations Assessment	Document to determine, understand and, if appropriate, mitigate impacts on European designated wildlife sites (Natura 2000 sites).
Housing Needs Survey	An assessment of the housing need in an area or settlement using primary data collection such as surveys/questionnaires. It is usually used to provide the evidence to justify an affordable housing exception site.
Housing Requirement	The net additional level housing to be planned for in an area. It is usually expressed as an annual rate or a total over a Local Plan period.
Housing Trajectory	Estimates of dwelling completions over the Plan Housing trajectories can be used to demonstrate that a plan can deliver in excess of a five year supply of land.

Housing and Employment Land Availability Assessment	An assessment of land promoted as available for development and its suitability. It is used to inform choices about where new development could be located. Can be referred to as HELAA or SHELAA.
Implementation	The point at which construction work is considered to have started.
Infill Development	Small scale development filling a gap within an otherwise built up frontage.
Infrastructure	The network of services to which it is usual for most buildings to be connected. It includes physical services serving the particular development (e.g. gas, electricity and water supply, telephones, sewerage) and also includes networks of roads, public transport routes, footpaths etc... In its widest sense the definition may also include open spaces, community facilities and commercial services which sustain a community's way of life.
Infrastructure Delivery Plan (IDP)	Sets out infrastructure issues and requirements which are needed to make growth happen or mitigate against the effects of growth.
Issues and Options	This is an early stage in the production of a Development Plan Document involving consultation and community involvement. Its purpose is to identify the issues which need to be addressed and to receive initial feedback on a range of proposed alternatives.
Key Diagram	A map based diagram to illustrate the broad proposals and content of a development plan, normally contained within the main strategy.
Landscape Character Assessment	Identifies areas with similar features or qualities, mapping and classifying them and describing their character. It is based on an understanding of landscape character and of the natural, historic and aesthetic factors that combine to create local distinctiveness.
Legal Agreement	See Section 106 Agreements (S106).
Listed Building	A building of special historical and/or architectural interest considered worthy of special protection and included and described in the statutory list of such buildings.
Local Development Framework (LDF)	A portfolio of planning documents required by legislation between 2004 and 2011 which collectively delivers the spatial planning strategy for the area. A former name for what is now included in the Local Plan.
Local Development Order	A Local Development Order grants planning permission for a site, sites or area for specific types of development (specified in the Order) and, by doing so, removes the need for a planning application to be made. Local planning authorities have powers to make them.
Local Development Scheme (LDS)	A document that sets out what parts of the Council's planning framework are to be produced or reviewed and the timetable for their production.
Local Nature Reserve	Area of botanical or wildlife interest designated by a local authority.
Local Plan Part I	Development Plan Document setting out the long term strategic vision for the district and its development over the specified timescale.
Local Plan Part II	Development Plan Document which identifies sites to deliver non-strategic development needs as guided by the principles set out in Local Plan Part I.
Local Transport Plan (LTP)	A five-year integrated transport strategy, prepared by local authorities in partnership with the community, seeking funding to help provide local transport projects. The plan sets out the resources predicted for delivery of the targets identified in the strategy. Somerset County Council are the responsible authority.
Major Development	For residential development it is defined as 10 or more dwellings or a site area of 0.5 hectares or more. For other uses it is defined as the floorspace to be built being 1000 square metres or more, or a site area of 1 hectare or more.

Masterplanning	A framework used to structure land use and development including strategic principles. It sets the context within which individual developments or parts of a development can come forward.
Mitigation Measures	Any works or actions required to be carried out by developers to reduce or remove the impact of the development on the surrounding environment or to address particular environmental effects which would otherwise make that development unacceptable.
Monitoring	Regular collection and analysis of relevant information in order to assess the outcome and effectiveness of policies and proposals and to identify whether they need to be reviewed or altered.
National Planning Policy Framework (NPPF)	The key government statement of national planning policy to be taken into account in both plan making and decisions on planning applications. See https://www.gov.uk/government/publications/national-planning-policy-framework--2
Plan Period	The period that is covered by a plan. Normally development plans cover a 15 year period from adoption. The starting year of the plan is usually linked to the latest population/household forecasts.
Planning Practice Guidance	An online resource which sets out more detail and expectations of how planning authorities should work with national policy in practice.
Natura 2000	An ecological network of protected areas in the territory of the European Union.
Passive Solar Energy	Energy provided by a simple architectural design to capture and store the sun's heat. An example is a south facing window in a dwelling.
Permitted Development	Certain categories of minor development, as specified in the General Permitted Development Order, which can be carried out without having to first obtain planning permission.
Phosphate	A chemical compound that contains phosphorus. Concentrations of phosphates in water causes excessive algae and plant growth which damages the quality and ecology of rivers and lakes. The main sources of phosphates are domestic waste water, livestock and use of fertilizers.
Phosphate Mitigation	Measures to reduce phosphate entering a water catchment or removing it. These include managing phosphates at source, wastewater treatment (engineered solutions) and natural mitigation (designed wetlands, trees etc...).
Phosphate Neutral	When the additional loading of phosphate as a result of a development proposal can be offset by mitigation measures leading to no net increase.
Photovoltaic Cells	Technological component of solar panels that capture energy from the sun and transform it into electricity for use in homes and businesses.
Planning Obligations	See Section 106 Agreements.
Planning Policy Statements (PPSs)	Sets out the Government's national land use planning policies (now superseded by National Planning Policy Framework and National Planning Policy Guidance).
Preferred Options	Produced as part of the preparation of planning documents. The council sets out what it thinks are the most appropriate set of policy responses to the issues needing to be addressed. These would be consulted on to seek views as to their validity prior to refinements being made.
Policies Map	A component of a Local Plan and an important part of the development plan. It shows the location of proposals in all current planning proposals and designations of land on an Ordnance Survey base map.
Presumption in Favour of Sustainable Development	Set out in paragraph 11 of the National Planning Policy Framework and , this means that proposed developments should be granted planning permission unless their adverse impacts significantly and demonstrably outweigh their benefits.

Primary Village	These are larger villages in rural areas defined by Part I of the Local Plan. They have core services and facilities and are the first places to consider in distributing planned rural housing. See also Secondary Village.
Protected Species	Any species which, because of its rarity or threatened status, is protected by statutory legislation.
Ramsar Sites	Wetland sites of international importance, especially as waterfowl habitat. The term was adopted following an international conference, held in 1971, in Ramsar in Iran).
Registered Social Landlords	Independent housing organisations, including trusts, co-operatives and companies, registered under the Housing Act 1996.
Residual requirement	Local Plan Part I sets out minimum levels of development. The residual requirement is that portion of the requirement that remains to be identified.
Retail Assessment / Town Centres Study	An assessment which may be required in connection with major retail purposes assessing the likely effect of the proposals on patterns of trades and the viability and vitality of existing retail centres.
SAMSEN	A mapping system depicting Somerset's ecological network.
Scheduled (Ancient) Monument	An ancient structure, usually unoccupied, above or below the ground, which is preserved by order of the Secretary of State.
Schedule 1 Species	Species protected under the Wildlife and Countryside Act 1981 as amended.
Secondary Village	Villages, defined by Part I of the Local Plan, which are of a sufficient size and have sufficient facilities to be considered as sustainable locations for a modest amount of development. See also Primary Village.
Section 106 Agreements (S106)	Allows a Local Planning Authority to enter into a legally-binding agreement or planning obligation with a land developer over a related issue (often to fund necessary improvements).
Section 41 Species (s41)	This refers to the rarest and most threatened species of wildlife, as set out in Section 41 of the 2006 Natural Environment and Rural Communities Act.
Sequential Approach/ Test	A planning principle that seeks to identify, allocate or develop certain types or locations of land before others.
Self Build	Where an individual or group constructs a new home for their own occupation.
Sequential Test (Flooding)	A test that is carried out, in accordance with national policy, to ensure that areas at little or no risk of flooding are developed in preference to areas at higher risk. See also Exception Test.
Settlement Hierarchy	Categorisation of settlements in the plan area according to their services and facilities.
Site Allocations DPD	A Development Plan Document (part of the Local Plan) which allocates sites for specific or mixed development uses, or which makes other designations of land for a particular purpose. Part II of the Mendip Local Plan will be a site allocations document.
Soundness	A term which describes how a development plan is scrutinised at the examination stage. To be considered sound, a Development Plan Document must be positively prepared (meet the needs of the area), justified (founded on robust and credible evidence), effective (deliverable over the plan period) and consistent with national policy.
Spatial Planning	Brings together and integrates policies for the development and use of land with other policies and programmes which influence the nature of places and how they function.
Spatial Strategy	A strategy which sets out the distribution and nature of development across a given area.
Special Landscape Feature	A local designation recognising specific features which make an outstanding contribution to the scenic quality of the area or have cultural or historical significance.

Species Action Plan (SAP)	A framework for conservation of particular species and their habitats.
Strategic Development Site	A site allocated in Local Plan Part I and defined as a key site in delivering the vision outlined.
Strategic Flood Risk Assessment (SFRA)	Provides information about flood risk throughout the area of the local authority, either individually or combined with neighbouring authorities. The SFRA will consider the effects of climate change on river and coastal flooding, identify the risk from other sources of flooding, and consider appropriate policies for development in or adjacent to flood risk areas.
Strategic Housing Market Assessment (SHMA)	A study which calculates the housing requirements in an area by interpreting and modelling secondary data such as population change and household formation. One output of the SHMA is to produce an estimate of Objectively Assessed Need (OAN) which can then be translated into land use targets.
Statement of Community Involvement (SCI)	A document which sets out standards for engagement with individuals, organisations and communities in the preparation of planning documents and development control decisions.
Sustainability Appraisal	An appraisal of the economic, environmental and social effects of a plan undertaken throughout its preparation to enable understanding of different alternative solutions and to mitigate effects where a proposed development solution is recognised to have limited negative effects. It ultimately allows decisions to be made that deliver more sustainable forms of development.
Sustainable Community Strategy (SCS)	A long-term vision for improving the quality of people's lives, with the aim of improving economic, social and environmental wellbeing of the area and contribute to the achievement of sustainable development.
Sustainable Construction	Building using processes and materials that are environmentally responsible and resource efficient throughout a buildings life cycle.
Sustainable Development	Development which meets the needs of the present without compromising the ability of future generations to meet their own needs.
Sustainable Drainage Systems (SUDS)	Drainage systems, generally incorporating natural methods of ground percolation, which seek to minimise surface water run-off without, or lessening the need for, extensive networks of municipal pipes. It can also include the use of natural filtration to capture and hold waterborne pollutants or suspended materials. 'Grey water' systems can also be found which recycle precipitation or other relatively clean water for non-potable domestic or business uses.
Up-to-Date Plan	A development plan adopted since the introduction of the NPPF and less than five years old from the date of adoption.
Use Classes Order	A statute that groups uses into various categories and which specifically states that permission is not required to change from one use to another within the same class: B2 - General Industry; B8 - Storage and Distribution; C1 - Hotels; C2 - Residential Institutions; C3 - Dwelling Houses; C4 - Houses in Multiple Occupation; E - Commercial, Business and Service; F1 - Learning and Non-Residential Institutions; F2 - Local Community Uses; Sui Generis - Certain uses that do not fall within any of the use classes above such as theatres, petrol filling stations, launderettes and nightclubs.

Water Framework Directive	A European Directive that aims to establish a framework for the protection of inland surface waters (rivers and lakes), transitional waters (estuaries), coastal waters and groundwater.

Appendix 2: Saved Policies

This table confirms the status of extant saved policies from the Adopted Local Plan 2002 and the Somerset and Exmoor Park Joint Structure Plan (2000)			
Adopted Mendip District Local Plan (2002) Policies	F10	Sites for Education Use	Deleted
	S&W9	Brookside School	Deleted
Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011 (April 2000) Policies	Policy 6	Bristol/Bath Green Belt	Superseded by Local Plan Part II DP26 and Local Plan Part I DP4



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Ward:

Portfolio: Planning & Development Management

FROM: Cllr. Garfield Kennedy
Portfolio Holder for
Planning & Development Management
Date: 20 December 2021

SUBJECT: ADOPTION OF LOCAL PLAN PART II

Report Sign off	Seen by:	Name	Date
	Legal	Martin Evans/ Lesley Dolan	16.11.2021
	Finance	Duncan Moss	15.11.2021
	Dep. Chief Executive Officer	Tracy Aarons	15.11.2021
	Group Manager	Julie Reader-Sullivan	15.11.2021
	Portfolio Holder	Cllr Garfield Kennedy	14.11.2021
Summary:	The Inspector's Report on the examination of the Mendip Local Plan Part II (LPP2) was received on 2 nd September 2021. The Inspector's Report concluded that the Plan is capable of being adopted subject to Main Modifications. Cabinet endorsed adoption of LPP2 including Main Modifications and Minor Modifications on 4 th October 2021. This report now recommends the formal adoption of Local Plan Part II as part of the development plan for Mendip District.		
Recommendation:	That Council: (i) Note the content of the Inspector's Report on the Examination of the 'Mendip Local Plan Part 2: Sites and Policies' and his conclusions regarding legal compliance and soundness. (ii) Accept the Main Modifications set out in Appendix 1 to the Inspector's Report, which the Inspector considers are necessary to make the Plan sound in accordance with legislation. (iii) Agree the additional minor modifications as set out in the adoption documents in the interest of accuracy and consistency. (iv) Agree that the 'Mendip Local Plan Part II: Sites and Policies' as amended by the Main Modifications and minor modifications and shown in draft Written Statement, be adopted as part of the development plan for Mendip District. (v) Delegate authority to make any additional minor amendments necessary for accuracy and consistency prior to the publication of the final adopted Mendip Local Plan Part II and Policies Map to the Head of Service for Planning and Growth in		

	consultation with the Portfolio Holder for Planning and Development Management.
Direct and/or indirect impact on service delivery to our customers and communities	The recommendations will progress this development plan to adoption and enable it to be used with full weight in decision making. Once adopted, LPP2 will remain in effect until replaced through a future review. It provides a direction for development in the district and therefore mitigates the risk of development in less sustainable locations. Adoption of LPP2 contributes to Corporate Strategy objectives to renew and strengthen the local development framework to deliver on opportunities for affordable housing and employment
Financial Implications:	The remaining costs of the examination and production of hard copies of the Plan and the Policies Map can be met from existing budgets and/or earmarked local plan reserves held for this purpose. The report outlines that adoption can be challenged through judicial review. As with planning appeals, legal costs arising from a defence of the Plan is not a budgeted item and would need to be met from the Group budget as a whole. The legal costs for defending a Judicial Review at a hearing are estimated to be £25-35k. In addition, the Council would be liable for claimant costs if upheld. However, some or all costs could be recovered if a Judicial Review is dismissed.
Climate Change Risks and Opportunities:	There are inherent climate change impacts associated with a Local Plan which identifies sites for development. The options in Local Plan Part II have been developed and tested against a sustainability appraisal framework in which adaptation to climate change has been taken into account. The approach has been agreed as sound through the examination process. The Plan is subject to the sustainability and environmental policies in Local Plan Part I (LPP1) and allocation policies that set site requirements that maximise the opportunities for mitigation. The Policy team are working on how adopted policy can be strengthened to deliver sustainable development through guidance and supplementary documents in light of national changes introduced by Government to address Climate Change. Draft documents were considered at Scrutiny Board on 16th November 2021 and will be reported to Cabinet in January 2022.
Legal Implications:	The Inspector's Report confirms that the Plan is considered to be legally compliant and addresses the Council's duties and obligations (see Paras 233 – 240). The examination and adoption of a Local Plan is subject to Section 20 of the Planning & Compulsory Purchase Act 2004 and the Town & Country Planning (Local Planning) (England) Regulations 2012. This requires the Inspector's Report to be published and that when requested by the Council, an Inspector can conclude a plan is sound subject to Main Modifications Section 20(7c). These must be

	accepted by the Council to adopt the Plan. Further advice on this point is covered in the main body of the report. Once adopted, LPP2 will form part of the statutory development plan for Mendip District. Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on the Council to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise. The legal implications of the Council not adopting the Plan and/or not accepting some or all of the Main Modifications are covered in the main body of the report. On adopting a Local Plan, the local planning authority has to make publicly available a copy of the Plan, an Adoption Statement and summary Sustainability Appraisal. The statement will advise of a six-week period within which any challenge via Judicial Review may be made. No further challenges via Judicial Review may be made after this period. Adoption of LPP2 will have implications for the Norton St Phillip Neighbourhood Plan as it will confirm an allocation in the village that makes a material change to the Neighbourhood Plan currently under consideration by the Council. The implications of this will be covered in a future report to Cabinet.
Crime and Disorder Implications:	Not applicable
Equalities Implications:	An Equalities Impact Assessment was submitted with LPP2 for examination and updated at the Main Modifications stage. The Inspector's Report confirms at Paragraph 240 that equality issues have been taken into account in making changes to LPP2.
Risk Assessment and Adverse Impact on Corporate Actions:	Adoption is considered to be the best option to mitigate the risks to the Council and support the effectiveness, certainty, and longevity of the Plan. Alternative options to adoption are fully considered at the end of this report and highlight significant risks as well as adverse implications of this course of action.

INTRODUCTION

The Inspectors Report (IR) on the examination of the Mendip Local Plan Part II (LPP2) was received on 2nd September 2021. The IR concluded that LPP2 is capable of being adopted subject to Main Modifications. Cabinet endorsed adoption of LPP2 including Main Modifications and minor changes on 4th October 2021.

This report now recommends the formal adoption of LPP2 as part of the development plan for Mendip District. It also covers the key changes made through examination and consideration of consequences from adoption/ non-adoption of LPP2.

For Members' information, the Inspector's Report and Modifications together with supporting adoption documents can be accessed online:

<https://www.mendip.gov.uk/localplanpart2>.

The 'Adoption Documents' are listed below

Mendip Local Plan Part II - Written Statement for adoption
Mendip LPP2 - Policies Map Changes since Main Modifications
Mendip LPP2 - Schedule of Minor modifications
Mendip LPP2 - Sustainability Appraisal adoption report
Mendip LPP2 - Habitat Regulations Assessment, December 2021
Draft Notice of adoption

The Inspectors Report and all Adoption Documents can be accessed online from the Local Plan Part II page.

A printed copy of the Inspector's Report and Adoption Documents can also be viewed in the Member's Room and at Mendip Council offices reception.

BACKGROUND

The Council adopted Local Plan Part 1 in December 2014 (LPP1). LPP1 contains the strategy for growth from 2006-2029 to meet the housing and employment needs for the District and policies to determine planning decisions. LPP1 also set out the need and approach for local development allocations and policies to be covered in a separate development plan: Local Plan Part 2 (LPP2).

Following work on 'Issues and Options', including a comprehensive review of development sites and sustainability appraisal, the Council published a Pre-Submission Plan for public consultation in January 2018. The Council submitted LPP2 for examination on 23rd January 2019, together with all representations made from the 2018 consultation and a schedule of 'Proposed Changes' to the Pre-Submission Plan. In addition, all responses received in response to the 'Proposed Changes' before 14th January 2019 were included within the Submission.

An independent Planning Inspector (Mr Mike Fox BA (Hons), DipTP MRTPI) was appointed by the Secretary of State for the then Housing, Communities and Local Government to examine LPP2. The Inspector's role and process of examination is explained in the Inspectorate procedure guide which states:

"Once the plan has been submitted, the Inspector will take control of the examination process from start to finish. The Inspector's role is to examine whether the submitted plan meets the tests of soundness defined in the NPPF and meets all the relevant legislative requirements, including the duty to co-operate. The examination will therefore concentrate on the issues that affect the plan's soundness and legal compliance, and will not delve into other matters"

As LPP2 was submitted under transitional regulations, the examination was conducted against the "Tests of Soundness" set out in the 2012 National Planning Policy Framework. These "Tests of Soundness" are set out in Table 2, at the end of this report.

Public examination hearings took place in July and August 2019 covering both the submitted LPP2 and Proposed Changes to the plan. (which were also subject to prior public consultation). Following the hearings, the Inspector produced an Interim Note (Examination Document ED20) which advised that Main Modifications (MMs) to the Plan would be required to address issues of 'soundness'.

The Interim Note was reported to Cabinet in October 2019 which endorsed the continuation of the examination process and delegated the task of preparing draft MMs to Officers - to be agreed in conjunction with the Portfolio Holder and Leader. The main area of work was to respond to the requirement for additional housing sites for 505 homes in the north/north east of the District. In addition, Officers drafted revised policies for sites in response to Inspector's post-hearing questions, including a proposal for a mixed-use allocation for Travellers at the former Morlands site in Glastonbury. It was also determined, in light of the Inspector's concerns, that the submitted Local Green Spaces should be withdrawn as he considered these unsound. However, the Inspector indicated that these should be supported through neighbourhood plans and/or a future review.

The draft MMs were submitted to the Inspector for approval in December 2019 (see ED24 & ED25) and subject to public consultation from January to March 2020 (see <https://www.mendip.gov.uk/pmm>). The representations made during this consultation led the Inspector to determine a need for additional public hearings to consider the representations to the draft MMs (See Examination Document ED27).

It should be noted that the examination process was subject to significant delays from this point reflecting the difficulties of arranging hearings with Covid19 restrictions and the need for revisions to policies to address phosphate mitigation through additional MMs. The 'second stage' of public hearings took place in a virtual format during November and December 2020.

INSPECTOR'S REPORT

The IR and final MMs were received on 2nd September 2021. The Inspector has structured his report to follow his key issues and questions and to reflect the agenda for the two public examination hearings.

In preparing the report and finalising the schedule of modifications, the Inspector has a duty to consider all representations received in response to the consultation. Receipt of the IR closes the examination process and the Inspector and Planning Inspectorate have no further engagement in the Plan.

The Inspector confirms that LPP2 is sound but **only** with Main Modifications. He also confirmed that LPP2 meets legal compliance and environmental assessment requirements as set out in IR Paragraphs 233–240. The Inspector also concludes that LPP2 meets the objectives and the strategy set out in the adopted LPP1 and its development requirements (IR, Para 36). The IR provides a reasoned justification for additional housing to be identified in the Plan and confirms the soundness of the Council's approach and the sites identified.

The IR does not comment on all the individual sites and policies proposed in LPP2, but these can now be considered as sound in accordance with IR Para 25. There is no commentary on alternative sites which were discussed at the hearings. A summary of the MM is set out on Pages 3 & 4 of the IR and in Table 1 below. Many of the modifications were initially identified in the Interim Note ED20.

The IR has been subject to both internal review within the Planning Inspectorate and a draft made available to the Council for fact checking. Since the final report was received, a number of factual errors have been highlighted to the Council. These have

been reviewed and are not considered by Officers as material to the Inspector's conclusions on policies or overall soundness of the Plan. Further detail regarding the errors brought to the Council's attention are provided in Table 3 at the end of this report.

Summary of Proposals and changes

Overall, LPP2 now identifies 30 new development sites and updates three existing development allocations from Local Plan Part I (Saxonvale – FR1, land at Street ST3 and Street Business Park ST4). It also clarifies the status and purpose of 'Future Growth Areas' identified in LPP1. Policy DP25 identifies a suite of existing employment sites to supplement the key sites allocated by LPP1, allocates additional employment land and sets a policy for identifying employment land in the future. The policy on self-build exception sites for single dwellings (DP24) is also confirmed. Officers will update the supplementary guidance for Policy DP24 consulted on at the Pre-submission stage in due course.

The IR confirms the allocation of housing sites in Norton St Phillip (NSP1) and Beckington (BK1). In response to the IR, Norton St Phillip Parish Council have written to the Council to express their concern at the impact of NSP1 and to highlight that the IR has shortcomings that they do not consider to have been addressed. A separate report will be made to Cabinet to advise of practical and legal implications of taking the Norton St Phillip Neighbourhood Plan forward. It should also be noted that allocations establish the principle of development, although each development proposal will still be subject to consideration through the submission of a planning applications.

Table 1 : Mendip Local Plan Part 2: Summary of Main Modifications
Based on Summary Table provided by the Inspector on pages 3 and 4

Inspector's Report	Policy in LPP2	Modification
Paras 32-36	CP1	Include a new policy to commit to early Local Plan Review (LPR).
Paras 50	Plan	Increase potential for site allocations of 5 dwellings and above; delete "up to" and replace with "a minimum of".
Para 51		Clarify that where settlements have reached their dwelling requirements as set out in LPP1, this should not, of itself, be a reason for placing a cap on further development within the plan period.
Paras 56 - 86		Allocate sites for a minimum of 505 additional dwellings in the North-East of the District, and update the overall totals for Mendip; also strengthen the relevant policies in relation to highways access and sustainability aspects, including habitat mitigation.
Paras 96-114	MN1, MN2, MN3.	New policies to allocate sites on the edge of Westfield and Midsomer Norton.
Paras 115-138	BK1, NSP1	New policies to allocate sites in Beckington and Norton St Phillip
Para 139-141		Deletion of Proposed Site RD1 (Land off the Mead) in Rode
Paras 144-145	DP27	Include a new policy to address the impact of housing allocations on the Strategic Highways Network in and around Frome and Beckington, including key highways and junction improvements.
Para 146	FR1	Modify allocation at Saxonvale, Frome, to include new footpath river crossing and revised dwelling provision.
Paras 147-148	FR3a	Modify allocation for Land South and West of The Mount, Frome to increase the housing total, cover effective biodiversity mitigation and master plan.
Para 149	FR2	Modify policy for Land North and South of Sandy's Hill Lane, Frome, regarding dwelling total, provision of AH, employment land and retail units.
Para 153-155	ST3	Modify policy for Land west of Brooks Road and Future Growth Area, Frome, in relation to its role as a Future Growth Area (FGA), master planning requirements and revised dwelling provision.
Para 160	WL4	Modify allocation for Tinknells Depot, Wells, for development to avoid flood zones 2 and 3.
	ST3/ GL5/ FR3a	Include revisions to policies to cover the need for masterplans and the appropriate level of detail for major development sites.
Para 163	CX1	Restrict development at Land adjacent to the Pound Inn and A30, Coxley, to flood zone 1.
Para 164	WM1	Modify policy for Land at Court House Farm, Westbury sub Mendip to include requirements for community facilities.
Paras 180 – 188	GL5	Allocate a site at Morlands, Glastonbury, for gypsy and traveller accommodation.
Paras 189-203	Plan	Delete all Local Green Space (LGS) designations for reconsideration within either Neighbourhood Plans (NPs) or a future Local Plan Review.
Paras 11, 23, 205 & 206		Include new policy requirements in relation to phosphate impact on the condition of the Somerset Levels and Moors Ramsar Site, both in relation to the reference to sustainability appraisal/Habitat Regulations Assessment and to cover all the housing allocations where this consideration applies.
Paras 214-215	DP25	Modify policy for marketing employment land prior to determining applications for non-employment uses.
	-	Update Glossary definitions of employment land and Affordable Housing
	-	Other changes to ensure the Plan is up to date, internally consistent, justified, effective and consistent with national policy.

Local Plan Part 2 and Housing Supply

Housing allocations in Local Plan Part II are expected to deliver a minimum of 2,814 dwellings. Together with extant sites in LPP1, this increases to 3,336 dwellings. A summary table published with the adoption documents shows that 12% of the Part II allocations have an outline or full permission.

Officers have consistently explained that adoption of LPP2 will have a positive impact by increasing identified housing land supply overall and give greater certainty of progressing its allocations through planning and delivery. However, as LPP2 is a non-strategic plan, the examination did not test housing requirements and cannot rescind the district housing requirement from national targets which came into effect in December 2019. The Inspector's assessment of five-year housing supply only covers Local Plan Part I requirements (See IR, Para 170).

A new policy is confirmed in MMs to commit to an immediate update of the Development Plan to address the revisions to the NPPF and revised national housing requirement figures. Based on the provisional assessment of supply including the LPP2 site allocations, the current national Local Housing Need (LHN) formula would suggest a new plan review for Mendip District for the period 2021-2040 would need to allocate sufficient land for an additional 3,500 – 4,500 homes as a minimum starting point. This figure will be higher if the allocations are not adopted. Government has indicated that the LHN approach is under review as part of wider planning reform, but requirements for Mendip could be increased or reduced.

Following adoption, Officers will review in the coming months how the requirements and timescales for plan review can be progressed as a joint workstream in transition to the new Somerset authority.

CHANGES TO LOCAL PLAN PART II BEFORE ADOPTION

Adoption is part of the formal process of plan making and linked to meeting the legislative requirements which give status and weight to development policy. There is no further process or consultation procedure open to Council to make changes at this stage. However, minor modifications which fall outside the examination process can be made. The scope of such change is discussed below.

The Main Modifications provide a means for an examining Inspector to recommend that a development plan can be made capable of adoption, as an alternative to finding a plan "unsound". The Council requested that the Inspector set out such modifications following the first hearings in August 2019, as set out in examination document ED19. The practice of requesting modifications is employed almost universally by Councils at examination to avoid the costly process of withdrawing a plan which may be found unsound.

There is **no scope** for Council to reject a Main Modification recommended by the Inspector or to make new significant changes in response to the Inspector's report. Proposals to change the Plan, delete sites or not incorporate the Main Modification would effectively mean that Council is proposing to adopt a different Plan to the one that has been found sound by the Inspector (i.e. an 'unsound' Plan). Officers advise that this course of action would be considered unlawful, and at high risk of a successful challenge via Judicial Review.

JUDICIAL REVIEW

Following the formal adoption of a Development Plan, Section 113 of the Planning and Compulsory Purchase Act 2004 allows for parties to seek a Judicial Review (JR) of the Inspector's Report. Permission to seek a Judicial Review has to be lodged within six weeks of adoption which would run from 20th December 2021.

Members will be aware (as recorded in the Minutes of 4th October Cabinet) that Norton St Phillip Parish Council have stated their intention to make a JR claim to contest the Inspector's conclusions in relation to the 505 dwellings and other matters addressed or absent in the IR and the village allocations. This can only happen once the Plan has been adopted.

It is not appropriate to comment on a possible legal challenge in advance. However, Officers would advise Council that a 'high bar' would be set by the Courts in challenging the Inspector's judgement and reasoning in Court. The Inspector has broad discretion in reaching his recommendations and conclusions and is not obliged in the IR to set out detailed reasons or deal with all points made by objectors.

The Local Plan Part II is being recommended to Council by Officers as both sound and necessary. It also draws from the Inspector's assessment of the case put by Council Officers at public examination. If a Judicial Review claim is lodged following adoption of LPP2, it will be defended by the Council.

MINOR MODIFICATIONS, CHANGES TO THE POLICIES MAP AND SUPPORTING ENVIRONMENTAL ASSESSMENTS

Minor Modifications cover corrections, clarified text, factual updates and revisions to format and numbering. While the Inspector has reviewed these to ensure they are not material to 'soundness', they do not form part of the examination. These changes are summarised in a separate schedule for Council approval.

The Plan for adoption was subject to a full assessment of alternative development options through Sustainability Appraisals undertaken in preparing LPP2 to submission and at examination. The Council is required to set out a summary of this process at adoption. This is covered in the Sustainability Appraisal adoption report.

The Council have also published an updated Habitat Regulations Assessment (HRA) which includes the screening and conclusions for policies and sites for both the submitted plan and main modifications. The HRA has been updated to take account of legislative changes, and best practice since submission. The HRA is limited to identifying the need for phosphate mitigation and is not intended to replace the detailed guidance and technical work online.

Following adoption, the Council is required to publish a new Policies Map. The Inspector cannot make MMs covering the Policies Map as it is not a formal development plan document (See IR Para 15). The majority of Policies Map changes, such as allocations and development boundaries, were included in previous consultation versions of the Plan

published during examination. Additional map changes following the IR and comprising a schedule and maps are included in the adoption document and have been endorsed by Cabinet. Officers will update the existing online Policies Map and files for printed copies. The updated interactive map will allow users to access map notation and written text for both Local Plan Parts I and II.

CONCLUSIONS AND NEXT STEPS

The Inspector's Report concludes that, with the Main Modifications in the accompanying Appendix, the LPP2 is 'sound' and legally compliant. It is therefore suitable to be adopted by the Council. It is therefore recommended that Council now proceeds to adopt the Plan with the MMs recommended by the Inspector and endorsed by Cabinet.

National Planning Practice Guidance on plan-making advises that:

"While the local planning authority is not legally required to adopt its local plan following examination, it will have been through a significant process locally to engage communities and other interests in discussions about the future of the area, and it is to be expected that the authority will proceed quickly with adopting a plan that has been found sound"

On adoption, LPP2 becomes part of the development plan for the District and replaces any remaining 'saved' policies from previous development plans before LPP1. Policies in LPP2 carry full weight in decision-making.

Additional justification to adopt the Plan is summarised below:

1. Government expects planning authorities to adopt a Plan that has been found sound by the Inspector.
2. Adoption of LPP2 creates certainty and confidence in the planning and development framework and completes the objective to have a Part I and Part II covering the district.
3. The Plan provides an identified future supply of housing sites which will contribute to five-year housing land supply and encourage appropriate and sustainable development.
4. It is important to have 'legacy' plans adopted since these are likely to be in place for some time, before their replacement with some form of unitary development plan.
5. The Plan provides complementary policies to Part I covering retention and expansion of employment land which will support the district economy.
6. The Plan supports allocations on Council land at Saxonvale and other sites allocated in the Mendip affordable housing programme.
7. Some housing and other sites are unlikely to come forward until formally adopted.
8. The Plan provides additional policies on traffic infrastructure around Frome, rural affordable housing and replacing 'saved policies'.
9. Adoption provides a basis for supplementary documents and guidance.
10. The Plan is the key policy delivery mechanism on objectives stated in both the corporate plan and group business plans.
11. Adoption represents the completion of a complex undertaking which represents a significant commitment of officer and member time and resources (3 years in preparation, and nearly 3 years in examination).

12. Adoption allows Council and draw a line under LPP2 and focus on plan review and immediate priorities.

The Plan has a clear role and purpose in establishing the principle of development on allocated sites and setting criteria for development. The decision to adopt a sound development plan is not an opportunity to re-consider the arguments presented at examination for individual sites. Equally, it is not open to Council to combine the plan making process, which encompasses the evidence based allocation of sites and development of policies, with the separate consideration, scrutiny and determination of individual planning applications.

It is acknowledged and evidenced in representations and examination hearings that the Inspector's acceptance of some of the housing allocations is controversial with communities. However, non-adoption due to site specific issues would represent a 'disproportionate' response at the expense of the district-wide development framework. Some of the housing allocations are already subject to applications or at appeal. Non-adoption of LPP2, will not in itself, prevent granting of permission or the eventual development of these proposals.

A decision to adopt would enable LPP2 to become part of the Council's development plan and carry full weight the determination of planning applications. It will provide the site-specific detail required to supplement the framework for development adopted in LPP1 and will allow the Council to move on to the preparation of the next Plan in partnership with the other Somerset districts.

RECOMMENDATIONS

That Council:

- (i) Note the content of the Inspector's Report on the Examination of the 'Mendip Local Plan Part 2: Sites and Policies' and his conclusions regarding legal compliance and soundness.
- (ii) Accept the Main Modifications set out in Appendix 1 to the Inspector's Report, which the Inspector considers are necessary to make the Plan sound in accordance with legislation.
- (iii) Agree the additional minor modifications as set out in the adoption documents in the interest of accuracy and consistency.
- (iv) Agree that the 'Mendip Local Plan Part II: Sites and Policies' as amended by the Main Modifications and minor modifications and shown in draft Written Statement, be adopted as part of the development plan for Mendip District.
- (v) Delegate authority to make any additional minor amendments necessary for accuracy and consistency prior to the publication of the final adopted Mendip Local Plan Part II and Policies Map to the Head of Service for Planning and Growth in consultation with the Portfolio Holder for Planning and Development Management.

OPTIONS CONSIDERED

The main report explains the Inspector's final schedule of Main Modifications is, in effect, binding upon the Council and no additional major changes can be made. The alternatives to adoption are limited. These are:

- (a) to defer a decision on adoption (either for a temporary period or permanently)
- (b) to make a formal decision not to adopt the Plan
- (c) to withdraw the Plan (normally reserved for when a plan is found 'unound'),

These options all relate to the Plan as a whole and cannot be applied selectively to a site or policy.

Government has statutory powers to intervene where a local authority does not proceed to adoption. It is equally open to other parties to request to DLUHC (Department of Levelling Up, Homes and Communities) that this is considered. Therefore, Council would need to provide a clear explanation and reasoned justification for proposing these alternative courses of action.

There are examples of other LPAs deciding not to adopt or delay adoption of a sound plan. However, the justification in these cases either relates to conflicts with wider strategic plans, substantial release of Green Belt or a desire to rapidly advance an alternative Plan Review. None of these reasons apply to Mendip. In particular, the transition to Somerset Council means Mendip as a planning authority is not in a position to progress a District Single Plan Review to its own timetable.

Al the above options would adversely impact on the Council's credibility as a plan-making authority and weaken its position at appeal and to resist speculative development. There are also wide-ranging adverse consequences and risks examined in more detail below. Overall, these outweigh any perceived detrimental impacts of adopting the Plan.

Adverse Consequences of non-adoption.

Impacts on the credibility of the Council in Planning Matters

The non-adoption of the Plan would a send a message to communities, stakeholders and developers that the Council lacks confidence in its own planning framework and is not capable of making timely, 'difficult' or controversial key decisions. There is a risk that all the evidence gathering, preparation and decision making though to this point could be portrayed or perceived to be undermined. Non-adoption could also give rise to difficulties in relation to previous advice, recommendations and decisions where LPP2 has been given regard or weight.

Increasing the Risk of Speculative Development in Mendip

It is highly likely that non-adoption will increase the likelihood of speculative development in the District. In addition to the current shortfall against five year supply, promoters would be able to draw on the absence of a completed development plan to promote speculative development. Non-adoption could be employed as evidence to challenge the delivery assumptions made with regard to allocated sites that form part of the supply. This could be specifically advantageous to the case for promoters and

developers of housing sites with planning appeals underway and those who promoted alternative 'objection' sites to those allocated by LPP2.

Non adoption could also change potential developer's assessments of the risks and costs of development, making submission of speculative proposals and challenges of refusal more likely. Ultimately, this is likely to increased use of officer resource to manage appeal processes.

Loss of Development Plan Status

While significant weight can be given to the policies agreed as sound by the Inspector, there remains a material and significant difference from this status and a policy being formally adopted by the Council and contained in the Development Plan.

Non adoption risks weakening:

- the policies and sites not specifically referenced in the Inspectors Report.
- the basis to develop future supplementary planning guidance or development briefs
- the policies to protect employment land and promote rural exception sites
- the ability to update the policies Map and replace the remaining saved policies from the 2001 District Local Plan/ older structure plans.
- the overall framework for Local Plan Part I - given it embodies a direction to adopt a Part II Plan.

Mendip remains in dialogue with neighbouring authorities on their strategic and local plans work and housing requirements (Wiltshire, North Somerset, BaNES, WECA) under its statutory 'Duty to Co-operate'. The absence of development plan status for LPP2 puts the Council at a disadvantage in preparing statements of common ground and could encourage landowners to consider or promote 'boundary' sites through plan processes in neighbouring areas.

Non-adoption also creates practical issues for the use of policy information and maps by other services such as land charges and assets or when information is supplied to communities and external agencies.

Stalling Housing Delivery in allocated sites

Formal adoption and identification in a development plan conveys a potential site value and offers confidence that the allocated land use would be acceptable at application stage. There are sites where the landowner is unlikely to actively explore or invest in bringing the site forward for development without adopted status. This is particularly the case with brownfield sites and sites which require time for land assembly or involve relocation of existing occupiers.

Impacts on Infrastructure Funding and negotiation

Promoters of sites allocated under LPP2 are likely to continue to submit applications irrespective of the adoption of the plan, but the community, ecological and infrastructure requirements set out in the allocation policies will need to be secured through individual negotiation.

The Council has both secured, and is in the process of negotiating, infrastructure contributions under policy DP27 for highway improvements in Frome. If this policy is not

formally adopted, it would risk contributions from both existing and windfall sites in Frome considered to be subject to the policy.

A site without the formal status of adoption is likely to be at a disadvantage against adopted sites in other areas /plans in any competitive bidding process for funding support – e.g. brownfield land, infrastructure and developer funds, Homes England grants or projects involving levelling-up funding.

Financial consequences for the Council

Preparing a local plan is a significant financial investment for Mendip. Approximately £240,000 of direct examination costs would be lost together with the significant waste of time/resources for officers and the many communities and participants in the process.

There would be an increased risk of the award of costs against the Council in defending speculative appeals and appeal costs overall. if more speculative applications are submitted

Other government payments such as New Homes Bonus could also be impacted.

Impacts on the Future Plan Review

The Council expect joint working and collaboration between planning authorities in Somerset to continue which will include alignment of policy review, plans priorities and work programmes. However, housing requirements are likely to continue to be based on former individual districts boundaries as set by the standard method - or a revision of it - for some period of time. Uncertainty about the status of allocations in LPP2 would be carried forward in the work underpinning the identification of housing sites during the next plan review. This would increase the number of sites needed to be identified in Mendip in the future Plan review process.

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Table 2 National Planning Policy Framework 2012 - Para 182
A local planning authority should submit a plan for examination which it considers is “sound” – namely that it is: • Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development; • Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence; • Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and • Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

Table 3 Factual errors in Inspector’s Report notified to Council
Para 157 Policy WL1 - Bubwith Walk (*1)
Issue Para 157 of the IR refers to an odour assessment report produced by Wardell Armstrong. However, this report relates to the adjacent site WL4 Elm Close and some of its mapping covers this site. The IR para 157 refers appear to refer to site WL4. However an updated odour assessment report was submitted for site WL1 and provided to the Inspector as part of Additional Main Modifications (AMM). This is included as AMM response as 013-7016. The odour report for site WL1 prepared by SLR Ltd acknowledges that further surveys may be needed but concludes that the main area of constraint is the southernmost extent of the site.
Council Response Policy WL1 sets an explicit requirement that “<i>the capacity of the site remains subject to additional assessment work on odour nuisance in liaison with Wessex Water</i>”. The most recent evidence submitted to the Inspector does not contradict this. Officers consider that this error is not material to the soundness of the allocation policy and it is clear further technical work is required for a proposal to come forward. It is also noted that the Inspector refers to a level of ‘oversupply’ in Local Plan Part II as justified to take account his concerns with the deliverability of some sites in the plan period (See Para 86).
Para 127(a) Policy NSP1 – Mackley Lane (*2)
IR Para 127 refers to comments made by the appeal Inspector on the Laverton Triangle site (application 2013/2052). Para 127 states “<i>The appeal Inspector considered that the proposed accesses, onto Mackley Lane and at the Mackley Lane/Frome Road junction, would meet the necessary highway test</i>” (para 65). This is incorrect as the appeal decision APP/Q3305/A/14/2221776 did not involve development taking an access from Mackley Lane. Para 56 of the appeal decision (and not 65) does however consider traffic impact on the village as a whole.
Council Response IR Para 138 states <i>Policy NSP1 provides a set of comprehensive development requirements and design principles to ensure that the proposal integrates successfully into the existing village</i>. The pre-ambule to the policy clearly refers to necessary improvements to Mackley Lane and in policy bullet point 8 which refers to the need for ‘safe access’. The conclusions of the IR relating to site NSP1 follow discussion <u>a number of</u> principles and issues considered at examination from paras 123 and 138 and not just highways matters. It is also clear in both examination evidence and in the IR that the Inspector considered the issue of the Mackley Lane in detail and formed a judgement independently. The IR also refers in para 128 to the highways plan for Mackley Lane submitted to the examination. The Inspectors site visit also specifically considered this junction. It is the officers view, that this reference in error would not lead the Inspector to a different conclusion on the soundness of the allocation. Somerset CC as highways authority did not submit representations in LPP2 on allocations or participated in the examination. However, allocation NSP1 is subject to current planning application (2020/2053/FUL) The published SCC response to this application requires further detail on access arrangements for Mackley Lane. However, it does not state a safe access could not be achieved and these published comments do not indicate the site cannot be delivered
Para 75 – 505 Dwellings(*2)

This para makes a reference to ‘peripheral villages’ in NE Mendip – as the closest settlements to Bath and Bristol. Officers do not consider this statement inaccurate as the Inspector is referring to settlements in Mendip.

*1 Raised by a local resident who submitted representations to the hearings

*2 Raised by Norton St Phillip Parish Council in its letter to cabinet of 20 th Sept – see background papers

Documents for adoption – see <https://www.mendip.gov.uk/localplanpart2>

Mendip Local Plan Part II - Written Statement for adoption

Mendip LPP2 – Policies Map Changes since Main Modifications

Mendip LPP2 – Schedule of Minor Modifications

Mendip LPP2 - Sustainability Appraisal Adoption Statement (September 2021)

Mendip LPP2 - Habitat Regulations Assessment (December 2021)

Adoption Statement (notice to be sent to statutory consultees and interested parties)

Planning status of sites on adoption of Local Plan Part II

Background Documents

Inspectors Report into examination of Mendip Local Plan Part II: Sites and Policies (dated 1st September 2021) and Appendix 1 - Schedule of Main Modifications

Cabinet - Local Plan Part II Examination Update (7th October 2019)

Cabinet – Mendip Local Plan Part II Inspectors report (4th October 2021)

Scrutiny Board 16th November 2021 – Item 9 Policy DP7 SPD and Net Zero Carbon Toolkit

National Planning Practice Guidance “Plan-Making”

<https://www.gov.uk/guidance/plan-making#plan-examinations> See Paragraph: 058 Reference ID: 61-058-20190315

Planning Inspectorate (PINS) :Procedure Guide for Local Plan examinations (March 21)

Letter from Norton St Phillip Parish Council – dated 20th September 2021 (online with adoption documents).

Report to Mendip District Council

by Mike Fox BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Date: 1 September 2021

Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Mendip District Local Plan 2006-2029 Part 2: Sites and Policies

The Plan was submitted for examination on 23 January 2019

The first stage of the examination hearing sessions was held between 23 July and 3 August 2019; the second stage of the hearing sessions was held between 24 November and 3 December 2020. In addition to unaccompanied site visits, accompanied site visits in connection with the second stage of the hearing sessions were held on 15 and 16 December 2020.

File Ref: PINS/Q3305/429/2

Abbreviations used in this report

AA	Appropriate Assessment
AH	Affordable Housing
AMM	Additional Main Modification
B&NES	Bath and North East Somerset Council
DC	District Council
dpa	dwellings per annum
DTC	Duty to Co-operate
EA	Environment Agency
ECJ	European Court of Justice
FGA	Future Growth Area
GTAA	Gypsy and Traveller Accommodation Assessment
GTP	Gypsy and Traveller Plan
HE	Highways England
HRA	Habitats Regulations Assessment
IR	Inspector's Report
LDS	Local Development Scheme
LGS	Local Green Space
LHN	Local housing need
LPP1	Mendip District Local Plan – Part 1
LPP2	Mendip District Local Plan – Part 2 (This Plan)
LPR	Local Plan Review
LSOA	Lower Super Output Area
MDC	Mendip District Council
MHCLG	Ministry of Housing, Communities and Local Government
MIQ	Inspector's Matters, Issues and Questions Discussion Note
MM	Main Modification
NE	Natural England
NP	Neighbourhood Plan
NPPF	National Planning Policy Framework (or <i>The Framework</i>)
PPG	Planning Practice Guidance
PPTS	Planning Policy for Traveller Sites
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SCC	Somerset County Council
SCG	Statement of Common Ground
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SL&M Ramsar Site	Somerset Levels and Moors Ramsar Site
SRN	Strategic Route Network
STW	Sewage Treatment Works
TA	Transport Assessment
<i>The Framework</i>	National Planning and Policy Framework (NPPF) [2012 version unless otherwise stated]
WMS	Written Ministerial Statement
WW	Wessex Water

Non-Technical Summary

This report concludes that the 'Mendip District Local Plan 2006-2029 Part 2 – Sites and Policies' provides an appropriate basis for the planning of the District, provided that a number of main modifications **[MMs]** are made to it. Mendip District Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

The MMs all concern matters that were discussed at stages one and two of the examination hearing sessions. Following the stage one hearings, the Council prepared schedules of the proposed main modifications (MMs) and carried out sustainability appraisal of them. The MMs were subject to public consultation over a six-week period, from 21 January to 2 March 2020.

In some cases, I have amended the detailed wording of the MMs and/or added consequential modifications where necessary. I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.

The **Main Modifications** can be summarised as follows:

Include a new policy to commit to early Local Plan Review (LPR).
Include a new policy to address the impact of housing allocations on the Strategic Highways Network in and around Frome and Beckington, including key highways and junction improvements.
Increase potential for sites of 5 dwellings and above; delete "up to" and replace with "a minimum of", and potential for small residential development schemes on sustainably located sites within Primary and Secondary Villages
Allocate sites for a minimum of 505 additional dwellings in the North-East of the District, on sites on the edge of Midsomer Norton and in the villages of Beckington and Norton St Philip and update the overall totals for Mendip; also strengthen the relevant policies in relation to highways access and sustainability aspects, including habitat mitigation.
Allocate a site at Morlands, Glastonbury, for gypsy and traveller accommodation.
Delete all Local Green Space (LGS) designations for reconsideration within either Neighbourhood Plans (NPs) or the LPR.
Modify policy for marketing employment land prior to determining applications for non-employment uses.
Include revisions to policies to cover the need for masterplans and the appropriate level of detail for major development sites.
Modify policy for Land at West View, Butleigh, to refer to soil condition, subsidence, improved pedestrian access and impacts on heritage assets.
Modify policy for Land at Court House Farm, Westbury sub Mendip to include requirements for community facilities.
Include a new definition of affordable housing (AH) in the Glossary.
Modify policy for Land North and South of Sandy's Hill Lane, Frome, regarding dwelling total, provision of AH, employment land and retail units.
Modify allocation at Saxonvale, Frome, to include new footpath river crossing and revised dwelling provision.
Modify allocation for Land South and West of The Mount, Frome to increase the housing total, cover effective biodiversity mitigation and master plan.

Modify policy for Land west of Brooks Road and Future Growth Area, Frome, in relation to its role as a Future Growth Area (FGA), master planning requirements and revised dwelling provision.
Modify allocation for Tinknells Depot, Wells, for development to avoid flood zones 2 and 3.
Restrict development at Land adjacent to the Pound Inn and A30, Coxley, to flood zone 1.
Include a new definition of employment land in Glossary.
Clarify that where settlements have reached their dwelling requirements as set out in LPP1, this should not, of itself, be a reason for placing a cap on further development within the plan period.
Include new policy requirements in relation to phosphate impact on the condition of the Somerset Levels and Moors Ramsar Site, both in relation to the reference to sustainability appraisal/Habitat Regulations Assessment and to cover all the housing allocations where this consideration applies.
Make various other changes to ensure the Plan is up to date, internally consistent, justified, effective and consistent with national policy.

Introduction

1. This report contains my assessment of the 'Mendip District Local Plan 2006-2029 Part 2 – Sites and Policies', which I will refer to as 'the Plan' for most of this report, in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the Duty to Co-operate (DTC). It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework 2012 – *the Framework* - (paragraph 182) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The most recent revised National Planning Policy Framework (NPPF) (or *the Framework*) was published in July 2021. It includes a transitional arrangement in paragraph 220 which indicates that, for the purpose of examining this Plan, the policies in the 2012 *Framework* will apply. Similarly, where the national Planning Practice Guidance (PPG) has been updated to reflect the revised *Framework*, the previous versions of the PPG apply for the purposes of this examination under the transitional arrangement. Therefore, unless stated otherwise, references in this report are to the 2012 NPPF or *Framework* and the versions of the PPG which were extant prior to the publication of the 2018 *Framework*.
3. The starting point for the examination is the assumption that the local planning authority has submitted what it considers to be a sound plan. This Plan is the basis for my examination. It is not the same as the document known as the Pre-Submission Document, which was published for consultation in January-February 2018¹. A subsequent document, entitled 'Proposed Changes to the Pre-Submission Plan'², was published for full public consultation in March-April 2019, and at the close of this six-week period, the

¹ MDC Mendip District Local Plan Draft for Pre-Submission Consultation 2 Jan-12 Feb 2018 [Examination Document SD1a].

² Mendip District Council: Mendip Local Plan Part 2: Proposed Changes: Agreed by the Council on 17/12/18 [Examination Document SD2a].

Council passed the consultation responses to me as the examining Inspector. The submitted Plan is therefore the pre-submission Plan, amended by the Proposed Changes.

4. On the last day of the stage one hearings on 3 August 2019, I announced that I would provide an Interim Note following receipt of information from the Council and other parties on matters which I requested during the hearing sessions. The statements which were submitted in response to my questions can be found on the examination website, referenced IQ-1 to IQ-34. The Interim Note made it clear that, at that time, I had reached no final conclusions as to the soundness of the Plan, and that following the consultation period, I would reach my final conclusions, taking into account any representations made in writing and at a subsequent (stage two) set of hearing sessions.
5. The Interim Note suggested, amongst other matters, the proposed allocation of 505 additional dwellings in the north-east of the District. It added that it was not within the Inspector's remit to suggest where these additional sites should be allocated. The Interim Note also stated that there would be a requirement for sustainability appraisal (SA) in relation to any additional housing sites put forward by the Council in their suggested MMs.
6. The Council's response to the Interim Note, under the heading *Updated summary of direction and progress*, suggested the allocation of six new housing sites in the Plan, three on the edge of the town of Midsomer Norton and three in villages in the north-east of the District. It also referred to a document prepared by the Council, entitled *505 Dwellings – Background Paper*, which sets out the policy background to the 505 additional dwellings, the Council's interpretation of what this means in practice, the area of search and how the Council has identified suitable settlements and sites. The six new sites identified in this document were subsequently included within the proposed MMs to the Pre-Submission Plan, which went out to public consultation between 21 January and 2 March 2020.
7. This new and increased level of housing provision for Mendip, which was not included within the initial, stage one, set of Matters, Issues and Questions (MIQs), but which was raised and discussed at some length in the stage one hearings by several representors, generated a considerable response from the public, many of whom stated that they had been denied the opportunity of contributing to the public discussion on both the principle of the additional 505 dwellings and on the soundness of the six new housing allocations. My Interim Note (Document E20) made it clear that the draft schedule of MMs was put forward without prejudice to the Inspector's final conclusions.
8. The Council also assessed the sustainability of potential sites for housing development in a Second Addendum to the Sustainability Appraisal (SA) and an Addendum to the Habitats Regulation Assessment (HRA), which both fed into the 505 Dwellings Background Paper. The Council's Statement in relation to Matter 1 of the stage two hearings states that the 505 Dwellings Background Paper sets out in detail the Council's interpretation the area of search for additional allocations, drawing from LPP1 and my Interim Note.

9. After considering the responses to the MMs consultation, I wrote to the Council on 3 April 2020 (Document ED27), acknowledging the frustration expressed by many representors, that they had not had the opportunity to present their case before me in a hearing session or question other participants. I stated that, whilst being acutely aware of the Council's keenness to progress the examination as expediently as possible, further hearing sessions must take place to ensure fairness.
10. My letter also stated that the additional hearing sessions, which were held between 24 November and 3 December 2020, would be restricted to discussing the principle of whether to allocate 505 new dwellings in the north-east of the plan area and the proposals for new housing therein, and that I would not reopen any discussion on other subjects that were covered in the MMs.
11. Following the stage two hearings and accompanied site visits, the Council published its Additional MMs to the Pre-Submission Plan which went out for public consultation between 9 February and 22 March 2021. Most of these MMs responded to concerns expressed by Natural England (NE) over the impact of excessive phosphates on the condition of the Somerset Levels and Moors RAMSAR Site, and also in response to my finding that one of the six additional sites, for 26 dwellings at Rode (site RD1), was not justified in view of its impact on the landscape and adjacent heritage assets.

Main Modifications

12. In accordance with section 20(7C) of the 2004 Act, the Council requested that I should recommend any MMs necessary to rectify matters that make the Plan unsound and thus incapable of being adopted. My report explains why the recommended MMs, all of which relate to matters that were discussed at the examination hearing(s), are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
13. Following the stage one examination hearing sessions, the Council prepared a schedule of proposed MMs and where these relate to new allocations, carried out sustainability appraisal of them. The MM schedule was then subject to public consultation for six weeks, from 21 January to 2 March 2020. A second schedule of MMs, following the stage 2 hearings, was also subject to a six-week public consultation period, from 9 February to 22 March 2021. I have taken account of all the consultation responses in relation to the modifications in coming to my conclusions in this report and in this light, I have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisals that has been undertaken.

Policies Map

14. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted local plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the

submission policies map comprises the set of plans identified as Mendip Policies Map as set out in Examination Document ED49.

15. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require further corresponding changes to be made to the policies map.
16. These further changes to the policies map were published for consultation alongside the MMs.
17. When the Plan is adopted, in order to comply with the legislation and give effect to its policies, the Council will need to update the adopted policies map to include all the changes proposed, incorporating any necessary amendments identified in this report.

Assessment of Duty to Co-operate

18. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
19. Part 1 of the Local Plan, or LPP1, is the strategic base of the Council's Local Plan, which was found sound by a previous Inspector. This Plan gives rise to only limited strategic matters with cross-boundary implications, although there is a recognition that the forthcoming Local Plan Review (LPR) will deal with major regional housing issues and other strategic matters.
20. The Council's approach to the Duty to Cooperate (DTC) in its DTC Statement³, has been supplemented in its response to the Matters, Issues and Questions (MIQ) Discussion Note⁴ and in an Additional Statement in response to discussions and questioning at the stage one examination hearings⁵. Statements of Common Ground (SCGs) with the neighbouring authorities of Bath and North East Somerset Council (B&NES), Wiltshire Council and Somerset County Council (SCC) demonstrate that there has been ongoing dialogue between the Council and all these authorities over strategic planning matters, even though conclusions and agreements have not been reached in all matters. There has also been co-operation between the Council and the West of England Councils to address strategic cross-boundary issues, as confirmed by a SCG⁶. A SCG has also been signed between the Council and Sedgemoor District Council regarding overall housing provision⁷.
21. Although some representations drew attention to lack of an agreed strategy for settlements on the edge of Midsomer Norton, it is important to recognise that the DTC is not a duty to agree.
22. The Council's evidence shows regular contacts with other key DTC consultees. The Environment Agency (EA) commented on both the emerging Plan and the

³ Mendip DC DTC Statement; December 2018 [Examination Document SD7].

⁴ Examination Document ED04A.

⁵ Examination Document IQ-1.

⁶ SCGs – see Examination Document SD7, Appendix 1.

⁷ SCG between MDC and Sedgemoor DC – see Examination Document SD7: Appendix 2.

Sustainability Appraisal (SA), which fed into the site selection process and identification of preferred sites. Likewise, Historic England and Highways England (HE) responded to the emerging Plan. All these responses were broadly supportive of the Plan.

23. Relatively late in the examination, NE raised concerns in relation to the impact of phosphates on the condition of the Somerset Levels and Moors Ramsar Site, which have led to the inclusion of several MMs.
24. On the basis of the above evidence, I am satisfied that where necessary, the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan, in accordance with the requirements of paragraphs 178-181 of *the Framework*, and that the Duty to Co-operate has therefore been met.

Assessment of Soundness

Main Issues

25. Taking account of all the representations, written evidence and discussions at both the stage one and stage two examination hearing sessions, and my observations at site visits, I have identified seven main issues upon which the soundness of this plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

Issue 1 – Is the Plan effective in delivering the strategic aims and objectives of Part 1 of the Plan?

Key strategic parameters for Mendip

26. Part 1 of the Mendip Local Plan (LPP1)⁸, adopted in December 2014, sets out the key strategic parameters for new housing, economic and other development in Mendip. The LPP1 spatial strategy, in core policy 1, expects all new development to contribute positively towards enabling the most sustainable pattern of growth for Mendip. It focuses the majority of development on the five principal settlements of Frome, Glastonbury, Shepton Mallet, Street and Wells, and other villages offering key community facilities, whilst strictly controlling development in the open countryside. Core policy 1 also emphasises maximising the re-use of previously developed sites and other urban land. New development is required to provide infrastructure in accordance with the needs of each town, as defined in core policies 6-10.
27. LPP1 core policy 2 provides for a minimum of 9,635 additional dwellings for Mendip over the plan period (2006-2029), at a development rate of 420 dwellings per annum (dpa) from 2011 to 2029. The largest town, Frome, is to take 25% of the District requirement, with smaller amounts (11-16%) for the other towns of Glastonbury, Shepton Mallet, Street and the City of Wells. These five settlements take around 80% of Mendip's housing provision, with the remainder earmarked for locations within the more sustainable primary, secondary and other villages.

⁸ Mendip District Local Plan 2006-2029 Part 1: Strategy and Policies (LPP1), Adopted 15 December 2014.

28. Core policy 2 requires an additional 505 dwellings, based on a Review of Housing Requirements in 2013 and rolling forward the end of the plan period from 2028 to 2029, and I deal with this in some detail in my report. It also provides for Future Growth Areas (FGAs) at Frome, Shepton Mallet, Street and Wells. The intention in LPP1 was to release all these FGAs for development in this Plan through formal site allocations. Concerns were expressed at the stage one hearing sessions as to whether policy ST3 for Street FGA was effective as it stands and whether it is reasonable to defer release to the production of a masterplan⁹. **MM41** refers to the need for flexibility in policy ST3 in relation to the extent of development and strategic open space which will come through master planning work. This is necessary for the effectiveness of the Plan.
29. This Plan – Part 2 of the Local Plan (or LPP2) – aligns with most of these strategic parameters. It is based on the LPP1 overall provision and aims to provide a rolling five-year supply of deliverable land for new housebuilding, together with maximising opportunities for affordable housing (AH) and provide an uplift in housing growth in accordance with national policy. **MM148** provides the updated planned growth for Mendip over the period 2006-2029 in order for the Plan to be positively prepared. It takes account of the additional 505 dwelling requirement and the revised estimates of yields in the submitted Plan allocations, which increased the total provision to 11,855 dwellings, equating to an uplift of 19% over the minimum District requirement of 9,635 dwellings in LPP1. With an allowance for windfalls in table 4a, the total uplift increases to 12,755 dwellings.
30. The Plan also accords with the LPP1 strategic parameters for supporting business development and growth. Core policy 3 focuses most of the required employment land – 62.1 ha - within the main towns, whilst core policy 4 supports modest proposals for the development of the rural economy. It also sets the parameters for the reuse of employment sites. The Plan supports these strategic principles and sets out detailed employment land allocations, updates the definition of employment land, supports mixed use and opportunities for employment use in town centres and key services estates.
31. A small part of the Bristol-Bath Green Belt lies in the north-east corner of the District. The fundamental purpose of the Green Belt is to prevent urban sprawl by keeping land permanently open. Policy DP26 maintains Green Belt policy in line with LPP1. I consider that this Plan can meet the District's housing, employment land and other development requirements in accordance with the LPP1 strategic provision without the need to use any Green Belt land within Mendip.

The need for Local Plan Review (LPR)

32. LPP1, adopted in December 2014, was based on social, demographic and housing data going back to 2011. This Plan (LPP2) accords with national policy in basing its housing provision on the strategic guidance in LPP1. The Council is also aware of the recent estimates of Mendip's housing need, and the changed national policy requirements as set out in the 2019 *Framework*,

⁹ See MDC's Additional Statement IQ-13 – *Future Growth Area at Street ST3*.

such as its housing requirement being set by the 'standard method', which will be the basis for current development management decisions¹⁰.

33. A combined review (Parts 1 and 2) of the Mendip Local Plan is therefore needed as a matter of urgency; the 2021 *Framework* states (Paragraph 33) that: "*Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary.*" These considerations have come into sharper focus since December 2019, when LPP1 passed its fifth anniversary since its adoption, and which now becomes a material consideration in ongoing decision-taking. This increases the justification for making provision for a housing total considerably more than the LPP1 total and providing 'future proofing' prior to the completion of the forthcoming LPR.
34. For the above reasons, **MM1**, setting out a new policy (LP1) and explanatory text, makes provision for a LPR, or Development Plan Review. This is to commence within two months of the adoption of this Plan, and I note the commitment by the Council to submit a successor development plan to the Inspectorate within three years of its commencement. In view of the latest housing requirements for the District (which I have to stress are not part of this examination), this modification enables the Plan to be justified as well as being in accordance with national policy.
35. The modification also refers to the need to address, in addition to Mendip's housing requirement, any unmet housing need from adjacent authorities, employment land requirements, provision for gypsies, travellers and travelling showpeople, and an assessment of highways and other infrastructure, all of which are necessary for soundness. The new policy LP1 sets out the requirement for the LPR, its remit and committed timetable for its delivery.

Issue 1 – Conclusion

36. I consider that, subject to a number of main modifications, the Plan is effective in delivering LPP1 in accordance with national policy; it reflects the key strategic parameters of providing for new development in Mendip, as set out in LPP1 and the need for an urgent LPR.

Issue 2 – Are the Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) justified and do they provide effective input into the policies of the Plan?

The role of SA and HRA in plan preparation

37. The Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) are critical elements in the preparation of the Plan, including the assessment of alternative strategies and whether the Plan's policies are sustainable, and in the case of the HRA, whether the impact on wildlife is acceptable.

¹⁰ The new standard method, referred to in paragraph 61 of the 2021 *Framework*, giving a requirement for Mendip of 588 dpa, is not required to be addressed in this Plan, although the LPR will need to satisfy this increased housing requirement in the District.

Have the SA and HRA played an effective role in the preparation of the Plan?

38. The SA and HRA were examined at the LPP1 stage, which is the formative part of the Plan in relation to strategic choices for the location of development. The Inspector's Report (IR) concludes that the SA was adequate and that HRA Appropriate Assessment (AA) was not considered necessary¹¹.
39. In relation to this Plan, the SA evidence¹², prepared in-house by the Council, and the HRA report¹³, carried out by Somerset Ecology Services¹⁴, is well documented and covers all the stages in plan preparation. This includes a SA Addendum to cover the Proposed Changes to the Pre-Submission Plan¹⁵ and an updated HRA report to respond to the Sweetman 2 Judgment in the European Court (ECJ)¹⁶. Both the SA and HRA processes have been iterative, and influential from the start of the plan-making process. Moreover, the conclusions of the updated HRA report are supported by NE¹⁷.
40. As part of its response to my Interim Note¹⁸, the Council commissioned further SA¹⁹ and HRA work²⁰ as part of the consultation on the MMs, in relation to considering provision for an additional 505 dwellings in the north-east part of the District (see Issue 3). These documents considered the sustainability and ecological impacts of all the additional sites proposed for development and they conclude that the 'preferred option' sites are sustainable, subject to certain mitigation measures, set out in the MMs.
41. The Council's 505 Dwellings Background Paper also explains that realistic alternative sites were considered around Midsomer Norton and Radstock, as well as assessing the suitability of villages within the north-east of the District, based a set of criteria covering key elements of sustainability²¹.
42. The HRA Addendum also concludes that the additional allocations are unlikely to have a significant effect on features of European designated sites. This is subject to appropriate mitigation measures in relation to proposed allocations on the edge of Midsomer Norton and in two villages, in the north-east of the District in relation to loss of foraging and commuting habitat for greater horseshoe bats within the Mells Valley Special Area of Conservation (SAC).
43. In response to these recommendations, **MM62**, **MM69** and **MM114** require, for soundness, that policy MN3, for Land East of Fosse Way, Midsomer Norton; policy BK1, for Land off Great Dunns Close, Beckington; and policy NSP1, for Land off Mackley Lane, Norton St Philip, should ensure adequate mitigation in

¹¹ LPP1 IR - see Legal Requirements, page 40 [Examination Document SD34].

¹² Sustainability Appraisal Report Pre-Submission; Dec 2017 [Examination Document SD11].

¹³ Habitat Regulations Assessment; October 2018 [Examination Document SD14a].

¹⁴ Somerset Ecology Services is an arm of Somerset County Council (SCC).

¹⁵ Addendum to Sustainability Appraisal to reflect proposed changes; Jan 2019 [Examination Document SD13].

¹⁶ People Over Wind & Sweetman v. Coillte Teoranta (C-323/17) Judgment in the ECJ (often referred to as the Sweetman 2 Judgment).

¹⁷ Examination Document SD14b.

¹⁸ Inspector's Interim Note on Post Hearing Advice; 10 September 2019 [Examination Document ED20].

¹⁹ Mendip Local Plan Part 2 – Second Addendum to Sustainability Appraisal – Main Modifications. January 2020 [SDM41 & SDM42. Proposed Main Modifications Consultation Document 2].

²⁰ Somerset Ecology Services – Addendum to Habitats Regulations Assessment; January 2020 [SDM43, Proposed Main Modifications Consultation Document 3].

²¹ See 505 Dwellings Background Paper, Appendix 3.

the form of accessible replacement habitat within the development sites, alongside any other required mitigation measures.

Issue 2 - Conclusion

44. I consider that, subject to a number of main modifications, the SA and HRA are justified; they have used best practice methodology and have provided effective input into the preparation of the Plan in accordance with national policy.

Issue 3 – Does the Plan make adequate provision for the identified housing need for Mendip, in relation to (i) the overall amount; (ii) the distribution of housing provision; (iii) the soundness of its allocations; and (iv) its deliverability, as set out in Part 1 of the Plan, and in accordance with national policy, including its five year housing land supply?

3.1 Does the Plan meet the overall amount of the identified housing need identified in LPP1?

45. LPP1 provides for at least 9,635 dwellings for Mendip over the period 2006-2029, at a development rate of 420 dpa over the period 2011-2029. The submitted Plan exceeds this with a total of 10,987 dwellings, i.e., 14% above the minimum requirements of LPP1 core policy 2²². This provision has been increased through updating the housing capacity in the District.
46. **MM8** and **MMs 147 – 150** comprise a set of tables which specify the updated allocations in the main towns in Mendip and adjacent to Midsomer Norton (table 1); Primary and Secondary Villages (table 2); a summary of planned growth 2006-2029 (table 3); planned uplift from settlement requirements in core policy 2 (table 4a); and the Mendip housing trajectory over 5 year periods (table 4b). These tables update and clarify the Plan's housing provision, for example in relation to the recent inputs into the emerging West of England Joint Spatial Plan, and in relation to the need for more clarity around the FGAs, as well as taking into account the additional 505 dwelling requirement referred to above, which I address in more detail below. They are required to add clarity and demonstrate the effectiveness of the Plan. Furthermore, by taking on board the additional 505 dwellings requirement, they ensure the Plan accords with the strategic provisions of LPP1.
47. Mendip's housing provision has been updated from the submission Plan to a new total of 11,855 dwellings (excluding future windfalls)²³. **MM3**, **MM4** and **MM6** amend paragraphs 3.23, 3.24 and 3.45 respectively, to focus on additional allocations around Midsomer Norton and in primary villages in the north-east of the District being taken forward in this Plan, in line with the strategic provisions of LPP1 and to ensure effectiveness. This increased provision is in line with national policy, as expressed in paragraph 59 of *the Framework*, to significantly boost the supply of homes.

²² MDC Matter 3 Statement to the 2019 examination hearings, in response to MIQ 3.1 New Homes Quantum [Document Ref CS3].

²³ Update to Housing Trajectory, table 3 – summary of planned growth 2006-2029 [Document Ref MF-1].

48. The reasons for the increased estimate of dwelling capacity in Mendip are updated estimates of housing supply in consultation with relevant developers and land owners; additional sites allocated through NPs; the addition of a limited number of rural exception sites; sites for self-build and custom-build housing; a few specific redevelopment opportunities/boundary extensions to specific schemes within the towns, such as at Saxonvale in Frome; a few conversions from agricultural buildings; and finally, the inclusion of a quantum of new housing provision in the North-East of the District, which I will address later in my report.
49. Most of the housing provision in the Plan comes from planned growth, although a figure of 900 dwellings is the estimated windfall capacity (i.e. at 100 dpa). This is not unreasonable in the light of the Council's recent track record and increases the size of the buffer still further.
50. Another important change, which will have a positive bearing on the capacity of the Plan to maximise housing delivery, are the following modifications, which apply to all allocations with the exception of very small sites (i.e. from sites of up to 5 units), to change the wording from "up to" to "a minimum of" in relation these site allocations in the submitted Plan [**MMs 25; 28-30; 35-38; 44-46; 53; 54; 56; 57; 60 - 62; 66; 69; 70; 73; 76; 83; 91; 96; 114; 117; 124; 127 and 134**]. This will ensure the Plan is positively prepared and supports the Government's objective of significantly boosting the supply of homes.
51. **MM5** is necessary to ensure that small residential schemes on sustainably located sites within Primary and Secondary Villages will, in principle be acceptable, subject to environmental, infrastructure and living conditions (amenity) considerations. This will avoid the negative and artificial capping of new development once a total for a settlement has been exceeded, a practice which runs counter to national policy. It would enable a modest measure of organic growth within many settlements over the plan period. This will ensure the Plan is positively prepared and accords with national policy.

Issue 3.1 - Conclusion

52. On the basis of the above considerations and subject to the above main modifications, I consider that the Plan meets the overall amount of housing need in LPP1.

3.2 Is the overall distribution of housing in the Plan sound and in accordance with LPP1?

53. The overall distribution of housing in the Plan, with its focus on providing most new development in the main towns and the more sustainable villages, is broadly in line with LPP1, with one significant exception. LPP1 core policy 2, in its table showing the strategic distribution of development within Mendip over the plan period, makes specific reference to an 'additional requirement' over the period 2011 to 2029, of 505 dwellings.
54. The additional requirement for 505 dwellings was the reason for the stage 2 hearings held in November/December 2020, where it was debated fully. It is for these reasons that this matter has been addressed in some detail in my report.

55. Core policy 2 refers to this 'additional requirement' to be provided in line with paragraph 4.21 of the LPP1. This in turn refers to paragraph, 4.7; both of these paragraphs address not just housing numbers, but also strategic and qualitative housing distribution.

Is there a strategic case for the allocation of an additional 505 dwellings in north-east Mendip?

56. It is necessary to look at the genesis of the LPP1 requirement for the allocation of an additional 505 dwellings for Mendip, and to assess whether their intended location is within the north-east of the District, and if so, whether this should be primarily on the edge of Midsomer Norton and Radstock.
57. The LPP1 Inspector's Report (IR) states (para 21) that the towns of Midsomer Norton and Radstock, located "*just outside the boundary of the District*", are comparable in size and range of services with the main towns in Mendip as well as having close functional links with settlements in the northern part of the District.
58. The **key question**, which was debated in the stage two hearings, can be stated as: Is the LPP1 requirement, for 505 additional dwellings, already subsumed within the plan provision of 9,635 dwellings, with no additional housing provision required in this Plan, or is there a strategic expectation for an additional 505 dwellings to be allocated? And if so, should this be in a particular geographical area of the Plan?
59. The IR states (para 23): "*What the Plan does not deal with, however, is whether such sites (in the vicinity of Midsomer Norton and Radstock) should be considered through the Local Plan Part 2 Allocations Document as a way of meeting Mendip's own development needs*".
60. The IR states that: "*This is particularly relevant as, largely as a result of the decision to extend the end date of the Plan to 2029, the Local Plan Part 2 Allocations Document will need to find sites for an additional 500 or so dwellings across the District. No substantial evidence has been put forward to suggest that sites on the edge of these towns should be ruled out as possible alternatives for such local, as opposed to strategic allocations*".
61. The IR concludes (para 23) "*The Plan is therefore, unjustified, and hence unsound in this respect.*" I agree with the LPP1 Inspector that it is necessary, in the interests of soundness, to consider whether a case can be made to include housing allocations in the Plan which focus primarily on these towns on the fringe of the District.
62. Also, in paragraph 23, the IR sets out four main MMs which would: "*remedy this element of unsoundness by making specific reference to the role that these two towns (Midsomer Norton and Radstock) play in Mendip and to the possibility that sites on the edge of them will be considered for allocation in order to meet Mendip's housing needs*".
63. It therefore seems to me that the LPP1 Inspector's view was that this Plan should clearly consider the possibility of allocating housing sites on the edge of the towns of Midsomer Norton and Radstock, which implies they should have been assessed by SA/HRA. This has not happened in the preparation of the

emerging Plan, that is until the Council's response to my invitation to consider doing so, as set out in document ED 20²⁴. This document precipitated firstly, a Background Paper from the Council, which assesses the potential for additional housing at sites around Midsomer Norton and Radstock (and elsewhere within the north/north-east of the District)²⁵, together with site assessments for additional allocations in addendums to the SA and HRA.

64. These documents, which I refer to below and which were discussed at the stage two hearings, make a strong case for the inclusion of three additional housing sites on the edge of Midsomer Norton for inclusion in the Plan.
65. The 505 dwellings provision appears in a box in the LPP1 Key Diagram, which refers to this quantum of additional housing "*to be allocated in the District*". This was raised by representors in support of spreading any additional development generally across the District, and not in the north-east of Mendip. However, this would be contrary to the strategic thrust of paragraphs 4.21 and 4.7 in the LPP1, which focus on the need to consider making specific allocations with reference to the towns of Radstock and Midsomer Norton rather than distributing the additional development generally across the District.
66. Others argued that the additional 505 dwellings should be provided through windfalls. However, there is no mention in either the IR or LPP1 of windfalls as appropriate for this purpose. I consider there are two reasons for this. Firstly, allocations, unlike windfalls, represent a planned commitment to make LPP2 positively prepared, with a reasonable certainty of delivery; and secondly, many windfalls, by their nature, are small sites, below the threshold for securing a proportion of AH, which is a critical issue for Mendip, which I explain later in my report.
67. LPP1 (para 4.21) states that the allocations for the additional 505 dwellings, to be addressed in LPP2, are likely to focus on sustainable locations in accordance with the strategy in core policy 1 and may include land in the north-east of the District, primarily adjacent to the towns of Radstock and Midsomer Norton.
68. However, this is not reflected in this Plan. The Plan's treatment of the potential options for development in paragraph 3.34, page 12, falls short of what I consider to be the expectations of the LPP1 Inspector and LPP1 itself. The sustainability doubts expressed in this paragraph, for example, run counter to the findings of the SA Second Addendum.
69. In fact, paragraph 4.7 adds further strategic input on this issue; firstly by drawing attention to the potential for new development on the fringes of Midsomer Norton and Radstock; secondly by stating that the Council will consider making specific allocations in this area to meet the development needs of Mendip; thirdly by stating that any development in this area will be undertaken in consultation with B&NES Council; and fourthly by raising the issue of addressing the impact on infrastructure in B&NES, such as education, transport and community facilities.

²⁴ Inspector's Interim Note – Post Hearing Advice; 10 September 2019 [Examination Document E20].

²⁵ Examination Document SDM44.

70. Although paragraph 4.21 states that the additional 505 dwellings 'may' rather than 'will' include allocations in the north-east of the District, I consider it significant that nowhere else in Mendip is singled out for comment, in either the IR or in LPP1, in relation to where the 505 additional dwellings requirement should be allocated.
71. It is clear to me that the strategic direction in LPP1 requires the Council to consider development allocations to meet the needs in the north-east of the District; that this development is to be carried out in consultation with B&NES and is to be located primarily on the edge of Midsomer Norton (but not necessarily in partnership with B&NES); and that key infrastructure decisions need to be faced.
72. The Council has now acted on this strategic steer by responding positively in response to document ED20, that the 505 dwellings should be allocated in the north/ north-east part of the District. Its subsequent documentation in the 505 Dwellings Background Paper and the supporting SA and HRA addenda, present robust and convincing justification for its view.

What is the economic, social and housing needs evidence to justify the allocation of 505 dwellings in the north-east of the District?

73. In considering whether this part of the District justifies the allocation of 505 dwellings on economic, social and housing needs grounds, I consider the following factors are relevant.
74. Firstly, there are significant functional links between Mendip and the cities of Bath and Bristol. LPP1(para 2.3) states that these cities exert a greater influence on the District than other outside centres, such as Taunton or Yeovil, in terms of commuting to comparatively better paid jobs and higher order shopping, which is reflected in local housing markets within Mendip.
75. There is evidence that these functional links are especially strong in the north-east Mendip. The housing pressures linked to these nearby cities are exacerbated by the Bristol and Bath Green Belt, which effectively puts the brake on almost all new development in the villages between the northern boundary of the District (where the Green Belt starts) and the urban areas of Bristol and Bath. This puts peripheral villages in Mendip, facing towards Bath and Bristol, such as Norton St Philip, on the 'front line', as the closest settlements to these cities, where there is no blanket policy restriction to new development/organic growth to the extent that there is in the Green Belt.
76. Secondly, these links are viewed as significant in driving up house prices in areas closest to Bath and Bristol; a map showing 2018 house prices in Mendip²⁶ shows the median house price for the District at £260,000. Mendip is divided into a 'patchwork quilt' of median house prices in small areas, which range from the lowest price band of 0-75% of the median average for the District, to the highest band of 200% plus. There are seven of these price categories, and the two highest (175-200% and 200% plus) are exclusively located in the extreme north-eastern part of the District, i.e. closest to the City of Bath. These highest house prices contrast with all the main towns in

²⁶ Map 1: 2018 House Prices Mendip, page 22 of the 505 Dwellings Background Paper: Appendix 3 Settlement and site assessments [Examination Document SDM45].

Mendip; Frome, for example, shows several small areas indicating house prices in the lowest three bands (i.e. from 0-75% to 101-125%).

77. This house price information is reinforced by evidence submitted at the hearings, confirming the high house prices in Norton St Philip, which are comparable with settlements nearer to Bath and in the city itself²⁷.
78. Housing affordability evidence also points to the north-east part being the least affordable in the District, within a context of Mendip on average being an area of relative housing unaffordability both compared with the South West Region and with England as a whole.
79. The Council's housing affordability evidence²⁸ shows 14 so-called Lower Super Output Areas (LSOAs) which comprised Mendip in 2018 (the latest figures available at the time of writing); the evidence shows that the ratio of median house price to median income (all properties) in the Rode, Mells and Woodland LSOA, which comprises the eastern part of the north-east of the District, including the villages of Norton St Philip, Rode and Beckington, has a ratio of 13.04, which is the highest in the District²⁹.
80. In contrast, the figures for the two LSOAs for Frome are somewhat lower, at 7.8 and 8.67, whilst Wells registers 7.56 and Shepton Mallet is significantly lower at 5.53. These figures justify the separation of the rural north-east from the town of Frome the purposes of considering the allocation of the above-mentioned 505 dwellings.
81. The number of AH completions in north-east Mendip since the start of the plan period (1 April 2006 – 31 March 2020) totals 122³⁰, of which 50 were completed in Chilcompton and 28 in Coleford. In contrast, 22 were completed in Beckington, 8 in Norton St Philip and none in Rode, although it was stated in the hearings that 13 affordable dwellings are in the pipeline for Rode³¹.
82. Thirdly, there is a relatively low level of housing allocations in the north-east of the District in the submitted Plan, despite the significant level of need that the above statistics point to.
83. Fourthly, the SA Second Addendum supports the additional housing allocations in the north-east of the District, and the key sustainability considerations for these sites are summarised in relation to these allocations below.
84. There is, therefore, a robust case, both in relation to the IR and LPP1, and supported by the economic, social and housing needs evidence set out above, that it is appropriate and sustainable for an additional 505 dwellings to be allocated within the north-east part of the District, primarily centred on the towns of Radstock/Midsomer Norton. This view is supported by the recent work undertaken by the Council in its 505 Dwellings Paper and its addendums to the SA and HRA. I therefore conclude that the decision to allocate 505

²⁷ MDC Note: House prices in Newton St Philip in comparison with neighbouring towns/villages and housing delivery in Newton St Philip to date in the plan period; Figures 1.2 and 1.3 [Action Point 16].

²⁸ MDC Note: Affordable Housing [Examination Document AP1-1].

²⁹ MDC Document on Affordable Housing; Figure 1.2 [Examination Document AP1-1].

³⁰ Action Point 1, table 2.1.

³¹ Evidence given in Day 3 of the stage two examination hearings by Tobias Shaw Paul.

dwelling in the north-east of the District is justified, sound and consistent with the aims and objectives of LPP1.

Summary of the strategic reasons for increasing the total housing provision in Mendip by 505 dwellings

85. In response to the key question expressed in paragraph 58 above, there is a robust case, both in relation to the IR and LPP1, and supported by the economic, social and housing needs evidence set out above, that it is appropriate and sustainable for an additional 505 dwellings to be allocated within the north-east part of the District, primarily centred on the towns of Radstock/Midsomer Norton. This view is supported by the recent work undertaken by the Council in its 505 Dwellings Paper and its addendums to the SA and HRA. I therefore conclude that the decision to allocate 505 dwellings in the north-east of the District is justified, sound and consistent with the aims and objectives of LPP1.
86. Given that there is already an identified 'overprovision' of supply against the identified housing requirement, I acknowledge that it could be suggested that there is no need for a further 505 homes in the north-east of the District. However, I consider such further provision to be appropriate for several reasons:
- (i) it provides further flexibility against the possibility of some sites stalling, for example, policies GL1 and WL2, which I discuss in more detail later in my report;
 - (ii) the further overprovision gives the Plan a measure of future proofing, especially in the light of the increased housing need figure set by the standard methodology for calculating local housing need, which the local planning authority will have to have regard to in planning decisions from hereon in;
 - (iii) the housing requirement is not a maximum and the 505 additional homes support the Government's objective of significantly boosting the supply of homes;
 - (iv) it would also help to address evident affordability issues in the District; and
 - (v) the additional housing can be implemented sustainably and without impacting harmfully on the localities where the new allocations are proposed.

How is the north/north-east of Mendip defined?³²

87. LPP1 does not define the precise area of the north-east part of the District, except by stating that it includes land adjacent to the towns of Midsomer Norton and Radstock. It is not unreasonable to include other settlements in the north-east of the District, and the Council's 505 Dwellings Paper suggests

³² I use the terms 'north-east' and 'north/north-east' interchangeably in my report.

the allocation of 81 dwellings in three villages as a part of the 505 dwellings – which the Council considers could be increased to 536 dwellings, i.e. over 15% of the total suggested provision for the north-east of the District.

88. The Council's 505 Dwellings Paper sets out its definition of the north/north-east part of the District in a map³³, extending from Chewton Mendip in the west to Rode and Beckington in the east, extending as far south as Stoke St Michael but avoiding the town of Frome. There is no indication in LPP1 that the area should include Frome, which is designated as a FGA and has been allocated an appropriate level of growth. One representation argued for a more limited area, to exclude the quarry villages, on the grounds that these settlements primarily looked south to the Mendip towns. In fact, the 505 dwellings Paper excluded this southern part of the area from any further allocations, and I conclude that the Council's definition is appropriate and fit for purpose.

Distribution of new homes outside the north-east part of the District

89. The provision for new homes in the main towns and other settlements within the rest of Mendip are in line with the strategic requirements of LPP1. I summarise the main components of this strategic distribution below.

(i) Frome

90. Frome's planned housing growth exceeds its strategic provision in LPP1 core policy 2 by 25%, from the minimum requirement of 2,300 dwellings to 2,880 (see updated Table 4a, showing planned uplift from settlement requirements in policy CP2 in MM149). The town, with its extensive facilities and public transport provision, including the only railway station in the District, is the most sustainable settlement in Mendip, and the high level of housing provision in the allocations within and on the edge of the town is therefore justified and in line with national policy. For the same reason, the level of employment land provision and mixed-use areas in the town is also justified.

(ii) Glastonbury

91. The town of Glastonbury is a highly constrained 'island' within a 'sea' of alluvial land; environmentally acceptable options for new development sites in the town are few. The planned housing growth for Glastonbury, however, still exceeds the strategic provision for the settlement in LPP1 core policy 2, by 4%, from the requirement of 1,000 dwellings to 1,036 (see updated Table 4a in MM149). **MM30** updates the level of shortfall against the core policy 2 target for Glastonbury, whilst the policies for housing land increase the provision in the town to 36 dwellings above the core policy 2 minimum requirement.
92. The contribution of the settlement towards the District's dwelling requirement is appropriate, in view of its proximity to the larger, neighbouring settlement of Street, which has more development opportunities than Glastonbury.

³³ 505 Dwellings - Background Paper, map on page 10 [Examination Document SDM44]

(iii) *Street*

93. The planned housing growth for Street exceeds the strategic provision for the settlement in core policy 2 by 22 %, (see updated Table 4a in MM149). Street has an adequate range of facilities and services to justify this level of housing provision. **MM7** is necessary to update and clarify the position regarding the FGA at Street, including strategic open space through master planning work. This will ensure the Plan is positively prepared.

(iv) *Shepton Mallet, Wells and the Primary and Secondary Villages*

94. The planned housing growth for Shepton Mallet, Wells and the Primary and Secondary Villages are proportionate and consistent with LPP1, as can be seen in Table 4a in MM149.

Issue 3.2 - Conclusion

95. On the basis of the above considerations, and subject to the above modifications, I conclude that the overall distribution of housing in the Plan is sound and in accordance with LPP1.

3.3 Are the site allocations in the Plan sound in terms of their sustainability and potential impact?

The additional allocations in the North East of the District

(i) *Allocations on the edge of Midsomer Norton*

96. Three additional allocations in the north-east of the District, for 455 dwellings, are located on the fringes of the town of Midsomer Norton, on greenfield sites.
97. The proximity of these allocations to a wide range of facilities is set out comprehensively in the submitted evidence³⁴ and a summary of the key findings of the National Travel Survey demonstrated that they were within a reasonable walking/cycling distance of the town centre³⁵.
98. A submitted Transport Assessment (TA)³⁶ assessed the cumulative traffic impact from the additional allocations on the fringe of Midsomer Norton. Its trip generation assumptions have been agreed by both the relevant highways authorities (B&NES and Somerset County Council (SCC)). It considers recent changes in travel trends and the capacity of the local highways network to support future growth. The results suggest that during both the AM and PM peak periods, with minor adjustments, all the junctions can satisfactorily accommodate the forecast traffic flows across the extended three-hour peak period.
99. This evidence demonstrates that the cumulative impact on highways safety and ease of movement in the Norton/Radstock area from these three

³⁴ Matter 4 Hearing Statement by Barton Willmore on behalf of Curo Enterprises Ltd [Examination Document PMS4-4].

³⁵ Appendix 2 Transport Technical Note by Stantec, to Tetlow King Matter 4 Statement [Examination Document PMS4-14], and in Action Point 4 – National Travel Survey [Examination Document AP4-1A and 1B].

³⁶ Matter 4 Hearing Statement by Tetlow King Planning for Waddeton Park Ltd; Appendix 2 Transport Technical Note; Section 5 Impact of the Development on the local network [Examination Document PMS4-14].

allocations would be acceptable³⁷. Furthermore, a SCG agreeing transport mitigation measures for allocations MN1, MN2 and MN3 was prepared and signed by the Council and B&NES³⁸. MM58, MM60, MM61 and MM62 are necessary to update the position in relation to new housing allocations on the edge of Midsomer Norton.

100. Concern was expressed that the existing housing/employment balance in the Midsomer Norton/ Radstock area was already skewed by heavy out-commuting to Bath and Bristol. This issue is addressed in the Council's response to the relevant MIQ question³⁹. It states that the Somer Valley section of the B&NES Core Strategy and Placemaking Plan⁴⁰ identifies the imbalance of homes and jobs as a local strategic issue resulting from the closure of local manufacturing companies, leading to increased out-commuting. However, policy SV1 in that plan, dealing with the Somer Valley, seeks to enable the delivery of 900 jobs and 2,470 homes over the plan period from 2011-2029.
101. B&NES, in its written and verbal evidence⁴¹, argued for its employment policy to take off prior to giving the greenlight to additional housing. However, given the impressive progress achieved by B&NES and its partners in securing significant employment development as part of its sustainable regeneration strategy, I consider that the additional housing allocations around Radstock/ Norton in this Plan would not be unsustainable. It was also pointed out that site MN2 (Underhill Lane) is located within one mile of the Somer Valley employment area, and therefore within walkable commuting distance for many future residents of this scheme.
102. In view of the strong links between settlements in north Mendip and Bath, it is not straightforward to isolate the impact of development arising from the Plan from other growth pressures on B&NES. The commuting pattern in this area is complex. The Census journey to work data (albeit dated 2011), shows strong links to Bristol, Frome and Wells from the Norton/Radstock area, with 33.4% of car trips shown to be local to the Radstock/Midsomer Norton area.
103. Other relevant considerations discussed at the stage two hearings included: (i) several convenient bus links, including the 'flagship' 174 service to Bath from Silver Street in Midsomer Norton, which is close to both sites MN1 and MN3; (ii) increased home working, accelerated by Covid-19; (iii) decreasing car ownership, especially among young people; and (iv) only 15% of vehicle trips being work related⁴².
104. I therefore do not accept that the impact of an additional 455 new dwellings on the local economy of Norton/Radstock over the plan period would be significant (it would comprise around 15.6% of the combined total of 2,925 dwellings from B&NES in policy SV1 [Somer Valley regeneration scheme] and

³⁷ Ibid, Section 4, para 4.4.

³⁸ Examination Document AP2-1.

³⁹ MDC Additional Hearing Statement-Matter 4.1 Sites on the edge of Midsomer Norton [Examination Document CMS4-1].

⁴⁰ B&NES Placemaking Plan; 24 January 2020; Volume 5 Somer Valley.

⁴¹ Including evidence given by Richard Daone (B&NES) on Day 4 of the stage two hearing sessions.

⁴² Evidence given by Stantec on Day 4 of stage two hearing sessions.

the proposed housing allocation in this Plan). Neither do I agree that it would be unsustainable.

105. Regarding the question of prematurity in advance of the forthcoming LPR and/or a joint planning exercise with B&NES, I have no detailed and realistic evidence that this will happen anytime soon, whilst the housing needs in Mendip are critical now and addressing them should not be postponed. There also appears to be an expectation in the LPP1 and IR that some form of joint working between the two authorities should have occurred some time ago. The principal reason for pursuing development allocations near Norton/Radstock is that the LPP1 acknowledges that these towns are sustainable locations for added growth.
106. I conclude that the three proposed additional housing allocations for at least 455 dwellings on the edge of Midsomer Norton, based on the considerations in the above paragraphs, are sustainable and sound, in accordance with the policy thrust of LPP1. **MM58** in the interests of securing the positive preparation of the Plan, sets out the development framework for the three housing allocations on the edge of Midsomer Norton, their importance in relation to LPP1 core policy 2 and their relationship to the development plan framework for Midsomer Norton and Radstock.
107. I now deal with the three sites individually.
108. In relation to **Site MN1 (Land at White Post)**, the SA Addendum notes positive or neutral assessments against most of the 13 SA objectives, with just two slight negatives against biodiversity and improving access to facilities and services, such as education. The bat habitats in the hedgerows on the site are addressed in policy MN1. In relation to education capacity, the Council states: *"Given the combination of statutory duties, joint working and some ability to expand existing schools, it is considered there are solutions to accommodating primary and secondary school capacity in the vicinity of MN1, MN2 and MN3. Where appropriate, it is expected that planning obligations can be made to help mitigate the impacts of additional demand"*⁴³. I have no grounds to challenge this evidence. The site is also deliverable, with no ownership problems or other potential infrastructure constraints.
109. Although the land has good agricultural quality, this is outweighed by the considerations outlined above in favour of developing the site for housing. The allocation of a minimum of 250 dwellings in policy MN1 at land at White Post [**MM60**] is required to make the Plan positively prepared, as well as justified and effective, and is a necessary contribution towards the 505 dwellings requirement for the north-east of Mendip.
110. Most of the SA Addendum's notes of **Site MN3 (Land East of Fosse Way A367)** are neutral, with slight negatives against impact on landscape character and improving access to facilities and services. The potential impact on the landscape character and long-distance views is addressed in policy MN3.

⁴³ MDC Action Point 3– Education Capacity; 10 December 2020 [Examination Document AP3-1]

111. The Council considers that the site forms part of the urban to rural transition for Westfield, an urban area contiguous to Midsomer Norton, and I agree. The site is deliverable, with no ownership or infrastructure constraints. Education capacity is addressed in the above-mentioned Council Note. Replacement habitat for development is addressed in policy MN3.
112. The site's good agricultural quality is outweighed by the considerations outlined above in favour of developing the site for housing. The allocation of a minimum of 140 dwellings in policy MN3 on land to the East of Fosse Way (A367) **[MM62]**, is required to make the Plan sound, and is a necessary contribution towards the 505 dwellings requirement for the north-east of Mendip.
113. **Site MN2 (Land at Underhill Lane)** is located adjacent to a mature woodland, immediately to the west and south, which has high ecological value. In response, policy MN2 requires a buffer area, (10-15 m wide in the supporting text). The policy addresses the need to protect the settlement character and the landscape through appropriate planting, screening, choice of materials and design and layout to ensure that the scheme would fit in well within its natural and urban context.
114. A suitable access will need to meet highways standards on width and visibility, although the impact on traffic conditions on the nearby highways network is not considered to be significant. The site is deliverable with no known ownership or other constraints. The allocation of a minimum of 60 dwellings in policy MN2 on land at Underhill Lane **[MM61]** is required for the soundness of the Plan and is a necessary contribution towards the 505 dwellings requirement for the north-east of Mendip.

(ii) *Allocations at the Primary Villages*

115. Two new housing allocations within Primary Villages in north-east Mendip are proposed in the main modifications for Site BK1 on land south of Great Dunns Close, Beckington for a minimum of 28 dwellings; and Site NSP1 on land off Mackley Lane, Norton St Philip for a minimum of 27 dwellings.
116. Both of these Primary Settlements have sufficient facilities and services to satisfactorily accommodate the quantum of housing proposed for each site.
117. At **Site BK1 (Land South of Great Dunns Close, Beckington)**, the SA Addendum notes a slight negative assessment against maintaining and enhancing the distinctive character of settlements, which is addressed in policy BK1, criterion 2.
118. The site is located close to facilities and services in a village which has a regular bus service to Bath and Frome. The site is unused, open ground, largely contained by existing housing and mature trees and would form a 'natural' southern extension to the recently completed Great Dunns Close housing development, where a suitable vehicular access is in place. It is sufficiently distant from the A36 dual carriageway to the east to avoid harmful impact on the living conditions of future occupiers.

119. The site drops southwards towards properties fronting onto Goose Street, within the Beckington Conservation Area. The proposed landscaped public open space on the southern part of the site would provide further mitigation for Goose Street residents. The distance between the nearest proposed dwellings and the existing properties on Goose Street is sufficient to ensure that there would be no harmful overbearing, being over twice the critical distance set out in relevant BRE report⁴⁴ at which testing would need to be undertaken.
120. Moreover, Goose Street, located to the south of the proposed development, would not be overshadowed. In a recent appeal⁴⁵ concerning a similar development proposal on this site, no concern over overbearing impact was raised, and the evidence before me does not lead me to a different view. The above-mentioned appeal decision states that the settings of the listed buildings in Goose Street have already been significantly compromised by 20th century properties on Goose Street, an opinion I share following my site visit.
121. Although the housing allocation is at a higher elevation than Goose Street, the photomontages prepared by the developer's consultants⁴⁶ show minimal visible impact from three locations in Goose Street; and after 15 years of landscaped growth, they show no visual impact. This accords with the above appeal decision, which states: "*As the landscaping would mature over time, so it would mitigate the visual effects and completely so by year 15*". I therefore do not consider that the visual impact of the proposal would be significantly harmful to justify its deletion from the Plan.
122. Having regard to the above considerations, the proposed housing allocation at Site BK1 in Beckington, for 28 dwellings [**MM69**], is required as a necessary and sustainable contribution towards the provision of an additional 505 dwellings in the north-east part of the District. Policy BK1 provides a set of comprehensive development requirements and design principles to ensure that the development integrates successfully into the existing settlement of Beckington.
123. **Site NSP1 (Land off Mackley Lane, Norton St Philip)** comprises two linked areas at the south-east edge of the village. The north-east section, known as the northern or Laverton Triangle, is also referred to as Site A in a recent planning appeal⁴⁷; site B in that appeal lies closer to the historic heart of the village, to the north of, and not part of, site NSP1.
124. The SA Second Addendum⁴⁸ states that both areas have mainly neutral or positive impacts, with the northern triangle scoring negatively in relation to impact on settlement character and built environment. The northern part of the triangle lies within the Norton St Philip Conservation Area; however,

⁴⁴ Building Research establishment document BRE Report209 (Site layout planning for daylight and sunlight – a guide to good practice (2011)-see para 2.2.4.

⁴⁵ Appeal Decision Ref: APP/Q3305/WW/17/3187245, Land at Bath Road, Beckington, for the erection of 28 dwellings.

⁴⁶ Examination Document AP11-2: Lichfields Response to AP11-1- Goose Street Image.

⁴⁷ Appeal Decision Ref: APP/Q3305/A/14/2221776, dated 28 April 2015, dismissing development proposed for up to 20 dwellings, East Site, Laverton Triangle, Norton St Philip, BA2 7PE.

⁴⁸ SA Second Addendum, Appendix 2 - Sites in Primary Villages [Examination Document SDM41].

mitigation through planting and landscaping would mitigate the impact on the Conservation Area and the sense of incursion into open countryside.

125. The above mentioned appeal proposal, for up to 18 dwellings, was dismissed on the grounds that the environmental harm to the landscape character and appearance of the area would be "*less than substantial*" (paragraph 83 of the appeal decision) whilst the scheme's benefits were not sufficient to outweigh the identified harm. The principal ground for concluding less than substantial harm was impact on the open countryside, with the number of dwellings too great to enable the planting of a 15m wide tree belt to strengthen the verdant edge of both the existing and proposed built development.
126. The reduction to seven dwellings on the northern triangle would enable the planting of the above-mentioned tree belt. Policy NSP1 would also enable thicker and more substantial landscaped tree screens to the east and south, to effectively mitigate anything greater than marginal impact of the scheme on open countryside and also on the heritage assets and Conservation Area.
127. The appeal Inspector considered that the proposed accesses, onto Mackley Lane and at the Mackley Lane/Frome Road junction, would meet the necessary highway tests (para 65). In addition, the landscape visualisations showing both the above-mentioned junction and looking north-east along Mackley Lane⁴⁹, demonstrate that the proposed housing would be barely visible with adequate treatment of the junction and Mackley Lane.
128. A detailed highways plan⁵⁰ was not robustly challenged and would ensure that the access treatment would be safe for pedestrians and vehicular traffic as well as securing adequate landscape mitigation through earthworks, tree and hedge planting and safeguarding the existing stone wall. The above proposals would be complemented by traffic calming on Frome Road close to the access with Mackley Lane. I am therefore satisfied that the proposal for the northern triangle addresses the concerns articulated by the appeal Inspector.
129. The larger, south-western part of NSP1, for at least 20 dwellings, would form a south-western extension to the village. The developers' layout⁵¹ shows comprehensive landscaping, including substantial tree planting, which would significantly strengthen the existing green, defining boundaries.
130. The developer's photomontage illustrates the minimal visual impact of the scheme on the village and surrounding landscape⁵². This landscape visualisation has been prepared in full accordance with best practice for this type of exercise⁵³ and therefore carries significant weight.

⁴⁹ Lochailort Investments Ltd: AVR Report, Views 2 and 4 [Examination Document PMSV-1A].

⁵⁰ Stuart Michael Associates: Plan showing proposed access arrangements via Mackley Lane, Norton St Philip; January 2020 [Examination Document PMSV-1E].

⁵¹ Lochailort Investments Ltd: Plan showing illustrative site layout for allocation NSP1 [Examination Document PMSV-1C].

⁵² Lochailort Investments Ltd – LVIA representative viewpoint, produced by LDA Design [Examination Document PMSV-1D].

⁵³ Guidelines for Landscape and Visual Impact Assessment, 3rd Edition (GLVIA3) Landscape Institute with the Institute of Environmental Management and Assessment, 2013, and the Landscape Institute's Guidance Note 06/19 (TGN 06/19) Visual Representation of Development Proposals – with key technical issues summarised in Examination Document PMSV - 1F.

131. The District Councillor for Rode and Newton St Philip submitted a visualisation of the impact of the proposed development from the west⁵⁴. It fails to show any proposed landscaping and tree planting along the western boundary of the allocation, some of which already exists. This visualisation shows the proposed houses portraying a uniform white coating giving off a 'dazzling' effect, with no allowance made for weathering. In any event, the external materials of the dwellings could be determined through conditions at the planning application stage, for example requiring recessive (as opposed to reflective) colours. For the above reasons, I am satisfied that the developers' photomontage gives a more objective and realistic visual impact of the south-western part of allocation NSP1 than that supplied by the two parish councils.
132. The accompanied site visit took in views from around the balancing ponds, to the west /north-west of the site, and from the field between the balancing ponds and Church Mead, to the north. The developer's representative stated that any views from points west and north-west of the site would be satisfactorily mitigated after 15 years from public viewpoints; this was not challenged by any of the parties at the site visit, and I also saw no reason to challenge his comments.
133. I therefore consider that the site would be effectively contained within the landform, reinforced by the proposed tree planting and would have a neutral impact on the historic heart of the village and the setting of the Conservation Area and listed buildings, including the George public house and the church. The site would, of course, require a statutory flood risk assessment.
134. There is significant out-commuting, and car-based travel for commuting and other types of trips is the norm for rural Mendip. Based on this criterion alone, there could be a moratorium of new housing in all Mendip's villages, which in turn would drive house prices to even higher levels and fail to meet the AH and other housing needs in the area. The village is served by a regular bus service to Bath and other destinations.
135. The reality is that many Mendip residents find work in the major employment centres outside the District, with Bristol and Bath predominating; and the villages closest to these cities are the ones selected by the Council for the additional 505 dwellings to help meet Mendip's needs over the plan period. This is illustrated on the map on page 10 of the 505 Dwellings – Background Paper⁵⁵.
136. The Green Belt lies immediately north of the village, making it one of the closest villages to Bath and Bristol in Mendip. Therefore, commuting patterns from Norton St Philip in relation to these cities would involve shorter travelling distances than from other villages within Mendip, with positive sustainability implications. It is also noteworthy that no concerns were raised in relation to development in Norton St Philip by the highway authorities.
137. Regarding education capacity, the local primary school states: *"Future suitable housing developments that bring children into Norton St Philip would be whole-heartedly supported by the school and would help to ensure the school's*

⁵⁴ Examination Document PMS2-8: Appendix 1: Existing and potential views on approach to NSP1 from West.

⁵⁵ Examination Document SDM44.

long-term viability as a key local facility"⁵⁶. I am therefore satisfied that the allocation would not adversely impact on local education capacity. Policy NSP1, for a minimum of 27 dwellings, provides a set of comprehensive development requirements and design principles to ensure that the development integrates successfully into the existing village of Norton St Philip.

138. Having regard to the above considerations, the proposed housing allocation at Site NSP1 in Norton St Philip, for 27 dwellings **[MM111]**, is a necessary and sustainable contribution towards the provision of an additional 505 dwellings in the north-east part of the District. Policy NSP1 provides a set of comprehensive development requirements and design principles to ensure that the proposal integrates successfully into the existing village.
139. A third housing allocation in the north-east villages was initially put forward by the Council at **Site RD1 (Land off The Mead, Rode)**. Rode has good sustainability credentials, which would in principle justify additional dwellings in the village. The site is an open field on the western edge of the village and is visible from some distance across a wide arc taking in countryside viewpoints from the north, north-west and west. Photographs illustrating this can be seen in the document submitted by Wessex Archaeology⁵⁷.
140. Historic England expressed concern that the allocation would compromise the setting of Merfield House, a listed Grade 2* Georgian country house which is clearly visible from the edge of the village. The development would occupy around two-thirds of the field separating Merfield House from the edge of the village, which is integral to its setting. A proposed landscaped strip at the south-western part of the site, nearest to Merfield House, would not in my view prevent its setting being effectively compromised by the development.
141. The benefits of 26 new homes at Site RD1 would not outweigh the harm to the landscape and setting of the above-mentioned heritage assets, as evident from my accompanied site visit. The deduction of 26 dwellings from the total of 536 additional dwellings proposed by the Council for the north-east of the District would still, at a lower total of 510 dwellings, satisfy the LPP1 requirement for 505 additional dwellings, which reduces its justification. For the above reasons, I consider that the inclusion of policy RD1 in the Plan would be unsound.
142. The two village allocations in Beckington and Norton St Philip comprise a modest but important component of the additional 505 dwellings required for the north-east of the District. Development of both sites are also subject to habitat replacement, as set out in **MMs 69 and 114**.

The allocations in the main towns and elsewhere in the District

(i) Frome

⁵⁶ Letter from Chair of Governors of the Rode and Norton St Philip School Federation; 30 July 2019 [Appendix 1 to Examination Document PMS2-9].

⁵⁷ Examination Document ED43C-2020-1686; revised November 2020.

143. A Future Growth Area (FGA) is proposed in LPP1 core policy 6 for an area to the south of The Mount, Frome, on the southern fringes of the town. The Plan proposes the deletion of this FGA, pending the forthcoming LPR (see MM1 for details), not because the FGA is no longer needed; indeed, a Council note explains the need for a comprehensive approach, particularly in terms of highways access and infrastructure provision prior to planning for the entire FGA as proposed in LPP1.⁵⁸
144. This note is supported by Highways England (HE), which expressed concern over the uncertainty associated with the potential impact of proposed site allocations on the safe and efficient operation of the Strategic Route Network (SRN), i.e. the A36 and A303⁵⁹. A further HE note⁶⁰, based on a 'high level' review of potential traffic flow impacts on the SRN associated with the Plan, states that, although the Plan allocations are unlikely to harmfully affect the SRN as a whole, there would be a significant impact on traffic flows at the A36 White Row and Beckington roundabouts, which are close to the northern edge of Frome. The SCG between the Council, SCC and HE, which confirms the above statements, was signed off immediately before the start of the stage one hearing sessions.⁶¹
145. Stemming from this and further discussion at the stage one hearing sessions, a new policy, DP27, covers the provision of key highway infrastructure measures to support the delivery of development within Frome, Beckington and Rode. The new policy (and supporting text), which includes schemes for (i) A36 Beckington roundabout; and (ii) A36 White Row roundabout [**MMs 17 and 18**] is required to ensure that the proposed developments in Frome (especially policies FR2, FR3a and FR7, all on the south side of the town) enable effective highway circulation and ensure that the functionality of the highway network is not compromised, and therefore are necessary for the effective delivery of the Plan.
146. Modifications are proposed to policy FR1 (Saxonvale) in Frome town centre, to increase its potential to a minimum of 250 dwellings within a mixed use scheme [**MM22**]; and to optimise the use of the Frome River Corridor with a new footbridge over the River Frome to Willow Vale to the north [**MM24**]. They are necessary for the positive preparation of the Plan as well as being in line with national policy such as supporting the Government's objective of significantly boosting the supply of homes⁶².
147. Policy FR3a (Land South of Little Keyford and The Mount) is a combination of three separate but connected site allocations in the submitted Plan (numbered FR3, FR4 and FR5), and these occupy a significant part of the original FGA. **MMs 26-28** set the parameters for a masterplan for these three adjacent sites as a combined site and are required for soundness.

⁵⁸ MDC Additional Statement - Question 8: MDC note on reasons for deletion of the FRA from Frome [Examination Document IQ-8].

⁵⁹ Highways England: Mendip Local Plan Part 2 2006-2029 Examination Inspector's Matters, Issues and Questions Discussion Note; 24 June 2019 [Examination Document PS07-3].

⁶⁰ Highways England: Mendip Local Plan Part 2 2006-2029 Examination in Public; 26 July 2019 [Examination Document PS07-3C].

⁶¹ Statement of Common Ground between MDC, SCC and Highways England (HE) – Strategic Highways; 17/07/2019 [Examination Document SCG1].

⁶² Paragraph 59 of the Framework.

148. These parameters require technical studies to address issues such as drainage and sustainable transport; landscape and ecological mitigation/enhancement; increase the housing potential to 325 dwellings; and ensure that the living conditions of nearby properties are safeguarded. For the above reasons, I consider that the appropriate forum to consider the provision of the remainder of the LPP1 proposed FGA at Frome is in the context of the LPR. The need for and provision of the appropriate infrastructure to support this substantial development area for the longer-term future can then be assessed and new housing allocations can be considered.

149. **MM25** is required to enable policy FR2 (Land North and South of Sandy's Hill Lane) to be justified in relation to the specification of acceptable business use classes, provision of retail units and greater flexibility in the provision of a specified area of replacement habitat.

150. Policy FR6 for up to 100 dwellings on land at Innox Hill, on the northern edge of Frome, was deleted prior to submission as part of the 2019 Proposed Changes to the Plan for several reasons, including its potential visual impact on the landscape and impact on the setting of the town. The site lies within Band B of the Mells Valley SAC, with a wide diversity of bats. It also has serious drainage issues. I therefore support the Council's deletion of this site from the Plan.

(ii) *Glastonbury*

151. The proposed allocation of the Glastonbury Highway Depot for housing (policy GL1 for 62 dwellings) is scheduled for delivery in 2025/26 – 2026/27 in the updated Housing Trajectory⁶³. It is unclear from a detailed Council note⁶⁴, whether this site could be released for housing development within the plan period, although SCC is exploring the principle of relocating the depot. I remain of the view that these issues can be overcome during the plan period. Moreover, since there are no identified alternative sites for housing within Glastonbury, and because it scored highly in the SA, I consider that it should remain in the Plan, whilst I note that the Council's housing trajectory has been revised to show the site in the '10 years plus' timescale.

152. I address the changes to the Plan in relation to site GL5 (Land at Morlands) under the section of my report dealing with Gypsies and Travellers below.

(iii) *Street*

153. The largest site allocation at Street, policy ST3 (Land West of Brooks Road) is a gateway site at the town's western approach. A Council note⁶⁵ confirms that the number of proposed dwellings has increased in the Main Development Area from 340 units in the submitted Plan to 400 units [**MM41**]; this update is necessary for the Plan to be justified and fulfil its potential.

⁶³ Examination Document ED1.

⁶⁴ Requested Document MF2.

⁶⁵ Requested Document MF5.

154. A SCG⁶⁶ commits the principal landowner to bring forward a masterplan for the development of the Main Development Area; there are no land ownership constraints; there is agreement on an indicative timetable to commence housing delivery by 2024; and the key parties have agreed to regularly review progress. The timetable is based on the SCG estimates for delivery of 260 dwellings within the plan period. The rate of delivery suggested by the Council, and the details in the note and the SCG, were not contested robustly at the hearing sessions and I am not therefore persuaded that the evidence points to a lower pace of delivery for policy ST3.

155. **MM46** sets out the masterplanning parameters for policy ST3, covering highways and access, landscape, ecology, accessible natural greenspace, living conditions of nearby residents, community facilities, as well as addressing any contaminated land and heritage issues. This is necessary for the effectiveness of the Plan and to ensure it is positively prepared.

(iv) *Shepton Mallet*

156. The Council's update⁶⁷ on the delivery of the LPP1 strategic site at Cannards Grave Road demonstrates that a rate of 45-60 completions per year is realistic, making a conservative estimate of 280 dwellings being completed within the plan period out of the scheme total of 600 dwellings. No modifications are needed for Shepton Mallet's housing provision to make the Plan sound. **MM47**, which updates the capacity of the Cannards Grave site from 580 to 600 dwellings, is necessary for the positive preparation of the Plan.

(v) *Wells*

157. Site WL1 (120 dwellings at land off Bubwith Walk) lies approximately 258m to the north of the Wells Water Recycling Centre across open fields. An independent odour impact assessment⁶⁸ by a recognised environmental consultancy, and a report by the Council state that the proposed development is acceptable in principle⁶⁹. That report concluded that most of site WL1, except the south-east corner, is predicted to experience odour concentration less than the benchmark criteria (see the report for technical detail). Policy WL1, based on the findings of the above-mentioned odour impact assessment, excludes the south-eastern part of the site from residential development, to ensure the policy is positively prepared and justified. The developers' scheme, however, excludes development from this area so that there is no requirement to reduce the planned dwelling yield of the site.

158. Policy WL2, for a minimum of 80 dwellings at Wells Rugby Club, is dependent on the relocation of the ground and its development at policy WL3 (New Rugby Club site at Haybridge). The Council, in liaison with the scheme developers, has issued a statement⁷⁰ which confirms that there is a contractor in place who is able to deliver the replacement ground ahead of the release of the site

⁶⁶ Appendix 1 to Document MF5.

⁶⁷ Examination Document IQ6.

⁶⁸ Wardell Armstrong: Land at Elm Close, Wells – Odour Impact Assessment; August 2019 [Examination Document MF4].

⁶⁹ Requested Document MF4.

⁷⁰ Requested Document MF3.

for redevelopment; terms of sale have been agreed for the ground once it is vacated; and the promoters intend to submit a planning application shortly. In view of these considerations, the Council has submitted a revised timetable for scheme delivery, based on new figures from the developers. Based on this information, the implementation timetable appears to be realistic.

159. The Council's statement, based on the developer's estimates, is for completions to come on stream between 2023/24 and 2025/26, i.e. significantly before the submitted Plan projection of completions by 2028/29. I therefore consider that the proposed development at Site WL2 is positively prepared and effective.

160. Regarding policy WL4, for the development of a minimum of 25 dwellings at Tincknells Depot, **MM55** requires that all houses are to be built outside flood zones 2 and 3. This is necessary for the Plan to be positively prepared and accord with national policy.

(vi) Primary and Secondary Villages

161. **MM63** extends the development limits at the eastern end of the village of Baltonsborough to include an existing employment area. This is necessary for clarity and for effectiveness.

162. **MM76** clarifies the housing total, heritage impact and impact on existing ground conditions for policy BT1 at Butleigh (Land at West View, Sub Road, for a minimum of 25 dwellings). This is necessary for the justification and effectiveness of the Plan.

163. **MM86** is necessary to restrict the development at policy CX1 (Land adjacent to the Pound Inn and A39, Coxley, for appropriate community uses and a limited number of dwellings, but only to subsidise the development of the community facility) and to ensure that development is restricted to flood zone 1 only. This will ensure compliance with national policy.

164. **MM134** requires up to 0.1 ha of land on site WM1 at Westbury Sub Mendip (Land at Court House Farm, for a minimum of 40 dwellings) for the delivery of a community facility. This is necessary for the Plan to be positively prepared. **MM181** is required to amend policy WM1, bullet point 5, to correct the amount of accessible bat habitat to be provided at the site to 0.27ha, as the site is located within Band C of the North Somerset and Mendip Bats SAC, and not Band B as previously thought.

Matter 3.3 conclusion

165. On the basis of the above considerations, and subject to the above modifications, I conclude that the site allocations in the Plan sound in terms of their sustainability and potential impact.

3.4 Are the allocations deliverable and is there a five year supply of housing on adoption of the Plan?

Can the Plan demonstrate that the proposed new homes can be implemented over the plan period?

166. Table 4a shows the planned uplift from settlement requirements in LPP1 core policy 2. The planned growth, plus windfalls, gives a figure of 12,755 dwellings over the entire plan period. The amount within the plan period therefore exceeds the LPP1 provision by a considerable margin. Table 4a also shows the distribution by the main settlements, including the additional allocations in NE Mendip, as well as the contributions in villages and rural areas.
167. Doubt was expressed by some housebuilders on the likelihood of some of the housing allocations being delivered in full over the plan period. No allocations, however, exceed 400 dwellings, which falls some way below the definition of large sites used by volume housebuilders⁷¹, and the evidence submitted at the examination pointed to no significant constraints on implementation or which involve mitigation issues on the majority of allocations, e.g. in relation to major infrastructure provision.
168. I consider there are only two potential 'showstoppers', in relation to site deliverability, both of which rely on relocation of existing uses, or where no obvious replacement sites have yet been identified. These are the sites at Glastonbury Highways Depot (policy GL1 for 62 dwellings) and Wells Rugby Club (policy WL2 for 80 dwellings). I am reasonably confident, however, from the evidence before me, that the issues related to these sites can be overcome within the plan period.
169. Even if these allocations remain undeveloped at the end of the plan period, their combined total of 142 dwellings would not result in doubt over the overall effectiveness of the Plan to deliver the LPP1 total for the District over the plan period.

Can the Plan deliver a five-year supply of housing?

170. Some of the representations alluded to the more exacting requirements for a five-year housing land supply in the 2019 *Framework*⁷². As explained, both in my Guidance Note⁷³ and at the hearing sessions, this is not within my remit, and I therefore do not respond to these representations. The representations which based their responses on the 2012 *Framework* generally supported the Council's calculations with no robust criticism of these calculations based on the LPP1 requirements.
171. National policy requires each local planning authority to maintain a five-year supply of deliverable housing sites. Paragraph 49 of *the Framework* states that the relevant policies (in a local plan) shall not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

⁷¹ For example, the Lichfields 'Start to Finish' report, dated February 2020, defines large schemes as 500+ and states (page 6), that "only sites comprising fewer than 499 dwellings are – on average – likely to deliver anything within an immediate five year period".

⁷² And now in the 2021 *Framework*.

⁷³ Guidance Note from the Inspector [Examination Document ED03A].

172. The Council's five-year housing land supply position at October 2018⁷⁴ is the basis for calculating that under the 2012 *Framework*, it has 5.7 years' housing land supply. This calculation is based on the LPP1 annual housing requirement of 420 dwellings, with a 5% buffer to ensure choice and competition, and it also assumes a 5% non-implementation rate. The document shows that the rate of housing delivery in Mendip since the start of the plan period (2006) until 31 March 2018, was 5,632 against a target of 5,015 dwellings, whilst over the most recent three years, the rate has exceeded the requirement by 22%.
173. During the examination, several new allocations were added, and some were revised upwards, as already explained. The Council's latest revision of its five-year housing land supply⁷⁵, submitted following the examination hearings on Matter 3 (housing) and based on its reviewed housing provision, is estimated at 6.7 years, based on a 5% buffer. With the application of a 20% buffer, this reduces to 5.8 years. The non-implementation rate is factored in at 5% of the housing delivery estimate, which is not unreasonable. The buffer is added to the Local Plan requirement, to be completed over the five-year period, i.e. the Sedgefield method, as preferred in national policy. The Council's five year estimate is explained in greater detail in its document, IQ-15.
174. In addition to the above calculation, the additional 510 dwellings to be added to the total of the Plan's housing provision in the north – east part of Mendip, means that the 6.7 years is likely to be exceeded. The developers of all these additional sites stated they intended to complete their schemes as soon as possible and in several cases within five years. The evidence points to the smaller sites standing a realistic chance of build out within five years, with starts likely to be made on all five sites.
175. Given the District's performance since the start of the plan period, which overall has been above the LPP1 target, including three out of the last four years⁷⁶, the District has not had a: "*record of persistent under delivery*" and therefore the additional buffer of 5% rather than 20% accords with the requirement in paragraph 47 [2] of *the Framework*. However, even applying the 20% buffer gets the District over the line in relation to the requirements of *the 2012 Framework*.

Issue 3.4 - Conclusion

176. On the basis of the above considerations, and subject to the above modifications, I conclude that the Plan can demonstrate that the proposed new homes can be delivered over the plan period and that the Plan can realistically deliver more than a five-year supply of housing.

Issue 4 – Does the Plan effectively address the qualitative aspects of housing supply in Mendip?

⁷⁴ MDC: Mendip District – Five Year Housing Land Supply – Autumn 2018 [Examination Document SD26a].

⁷⁵ MDC: Additional Statement Question 15 – Five Year Housing Land Availability [Examination Document IQ-15]. In particular, see Table 2a/2b.

⁷⁶ See Table 1 of Examination Document SD26a.

177. Most qualitative aspects of housing supply, such as AH provision, first homes, older persons' accommodation, care homes, accessible housing and student accommodation, are either covered in LPP1 or will be covered in the forthcoming LPR (see MM1). I see little merit, at this stage in the examination, in calling for additional work on these aspects, which would slow down the progress of this Plan significantly. Their inclusion within the LPR would seem to be the appropriate course of action at this time. As stated in MM1, prompt delivery of the LPR is essential to meet the requirements of national policy, which now places higher housing targets for the District.

Affordable housing (AH)

178. **MM2** is required to update the Plan's AH provision in the Plan, showing that the allocations identified in Tables 1 and 2 should contribute 887 affordable homes in compliance with LP policy DP11.
179. **MM143** is necessary to clarify the definition of AH in the Glossary, in line with national policy. The fuller definition of AH includes discounted market sales housing. This is important in view of the relative unaffordability of Mendip's housing market, as referred to earlier in my report. This is also evidenced by the Home Truths Report 2017/18 for the South West, published by the National Housing Federation, which highlighted the ratio of house prices to average earnings of 11.8, compared to 10.2 for the South West as a whole.

Gypsy and traveller accommodation

180. LPP1 policy DP15 requires a Site Allocations Document to meet the needs identified in the Gypsy and Traveller Accommodation Assessment (GTAA) (September 2013). The GTAA identifies a need for 90 additional residential pitches by 2020 and a further 51 pitches between 2021 and 2029, in addition to transit pitches and showmen's yards.
181. The scale and diversity of need for gypsy and traveller accommodation in Mendip is perhaps unusual. The evidence points to a sizeable element of New Age travellers in addition to other gypsy and traveller groups, such as Irish Travellers and Romany Gypsies. There is an urgent need for this issue to be addressed in line with national policy⁷⁷.
182. The Council included a Gypsy and Traveller Site Allocations Plan in its Local Development Scheme (LDS)⁷⁸, programmed for completion in 2019. Work on that plan has not yet commenced (at the time of writing), and the Council's energies over the next few months are to be focused on securing a submitted LPR to encompass Parts 1 and 2 (i.e. LPP1 and this Plan) as soon as possible for sound planning reasons. The LPR clearly needs to make provision for gypsy and traveller site allocations, in line with an updated GTAA, which is another reason for prompt delivery of the LPR, as required in MM1. The Council has since updated its LDS, with a timetable to progress its gypsy and traveller plan (GTP) to adoption in May 2022, in parallel with the LPR.

⁷⁷ Planning Policy for Traveller Sites (PPTS), Department for Communities and Local Government; August 2015.

⁷⁸ Examination Document SD9.

183. Although these issues need to be addressed fully in the GTP, there is also an urgent need to address the issue in the period between now and mid-2022, in this Plan, for the above reasons.
184. The Morlands site at Glastonbury was promoted for gypsy and traveller accommodation at the examination. The Council submitted a note⁷⁹, following discussion at the stage one hearing sessions, which covers the main concerns relating to this site, including potential ground contamination; proximity to a sewage treatment works (STW); flood risk; and its allocation as an employment location in the submitted Plan. The note summarises a Feasible Remediation Options Appraisal by independent consultants (Tweedie Evans Consulting) between October 2013 and October 2014. The note advises that an impermeable membrane and gravel cover solution would be sufficient remediation for development.
185. The note also advises that the southern part of the site is less vulnerable to flooding, being outside flood zone 3 and therefore more suitable for gypsy and traveller accommodation, even though this is the closest area to the STW. I also note that a refresh of an existing odour study in relation to the STW is expected to conclude that the site is within acceptable levels; and that the Environment Agency (EA) has advised that, providing a minimum of 300mm height is maintained above the flood zone 2 land, its concerns are mitigated.
186. Although allocating a site for gypsy and traveller accommodation is less than ideal on the Morlands site, this has to be weighed against the following material considerations: (i) the site is already, and has been for some time, occupied by what the Council refers to as 'van dwellers' with about 35-45 pitches; (ii) the site is in a poor environmental state, with several abandoned vehicles, which a new policy and resources could constructively address; (iii) there is a significant and urgent need for gypsy and traveller accommodation within the District; (iv) little serious interest has been shown for employment uses, despite its erstwhile designation as such; and (v) the Glastonbury area is viewed as especially desirable for some sections of the gypsy and traveller community.
187. On the basis of the above considerations, **MM39** requires the allocation of the Morlands site – policy GL5 – primarily for the provision of gypsy and traveller accommodation, subject to a remediation and implementation plan, which would address issues such as odour nuisance, ground contamination, flood risk, landscape and ecological impact, heritage matters and the provision of a safe and convenient vehicular access. This modification ensures the Plan is positively prepared, justified, effective and is in line with national policy and LPP1. **MM31** and **MM32** are required to clarify that the site is now allocated for a gypsy and travellers' site rather than as an employment site with future capacity.

Issue 4 – Conclusion

188. I conclude that, subject to a number of main modifications, including the commitment to tackle the full accommodation needs of the gypsy and traveller

⁷⁹ Additional Statements – Question 16 – Gypsies and Travellers [Examination Document IQ-16].

community, the Plan effectively addresses the qualitative aspects of housing supply in Mendip.

Issue 5 - Are the Plan's provisions for the protection and enhancement of its environmental, landscape, biodiversity and heritage assets justified and in accordance with national policy?

Is Local Green Space (LGS) allocation within the plan area justified and in accordance with national policy?

189. The issue of Local Green Space (LGS) designation was debated fully during the stage one hearing sessions. Although LPP1 sets out a strategic approach to open space provision in policy DP2 (open areas of local significance), there is no locus for LGS designation; the clear expectation in the supportive text is that this Plan or NPs should review the ongoing appropriateness of protection for existing areas and provide an opportunity for new areas to be identified.
190. The Council's methodology for selecting areas to be designated as LGS⁸⁰ included detailed LGS work sheets. To make it manageable, the requested sample was restricted to LGS that were subject to representations, and also raised at the hearing sessions. The sample comprised worksheets for eight settlements, including three of the five main towns and five of the villages, and I consider this to be a representative sample.
191. In addition to LGS designations, the worksheets showed areas which were reassessed and removed from LGS designation following the pre-submission consultation; sites that were drawn to the Council's attention as potential LGS and assessed and then rejected; and areas of green space that were not assessed. The Council's maps also showed: Conservation Areas, Flood Zones 2 and 3, and protected recreation areas and playing fields. I also visited some of the proposed LGS sites.
192. The Council's detailed evidence showed a few examples within Flood Zones 2 and 3, and LGS designations on extensive tracts of open land, some of it in agricultural use on the edge of villages, where such designations appear to be at odds with national policy. In some villages, several LGS are located within Conservation Areas and other protective designations, where national policy requires consideration should be given to whether any additional local benefit would be gained by this designation⁸¹; these policy requirements do not appear to have been considered by the Council.
193. The Council has worked hard in preparing the proposed LGS designations in the submitted Plan. However, unlike a 'call for sites', which local planning authorities are encouraged to do in the interests of maximising opportunities for housing development to meet local housing needs, national policy in relation to LGS designation is completely different. Rather, it sets a very high bar for LGS designation. The opening sentence of paragraph 77 of *the Framework*, which can be described as a 'headline' message, states: "*Local Green Space designation will not be appropriate for most green areas or open*

⁸⁰ MDC: Response to Inspector's Questions 17, 18 and 19 [Examination Document ED11B sets out the questions and IQ 17, 18 and 19 set out the Council's response].

⁸¹ PPG Ref ID:37-011-20140306 What if land is already protected by designations such as National Park, Area of Outstanding Natural Beauty, Site of Special Scientific Interest, Scheduled 8 Monument or Conservation Area?

space". It therefore follows from national policy that LGS designation should be the exception rather than the rule. One good reason for national policy setting this high bar is explained in paragraph 78 of *the Framework*, which states that local policy for managing development within LGS should be consistent with Green Belt policy.

194. To reinforce the message that LGS designation is to be used sparingly, paragraph 77 of *the Framework* states that LGS designation should only be used:

- (i) where the green space is in reasonably close proximity to the community it serves;
- (ii) 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 in wildlife; and
- (iii) where the green area concerned is local in character and is not an extensive tract of land.

195. It is clear from the phraseology of paragraph 77 that all three of these criteria are necessary for LGS designation.

196. Paragraph 76 of *the Framework* also states that LGS designation should be consistent with the local planning of sustainable development, and complement investment in sufficient homes, jobs and other essential services. It is therefore clear from paragraphs 76 and 77 that LGS designation has to be integral to the positive preparation of plans for the future of communities and should not be an isolated exercise to put a stop to the organic growth of towns and villages, which would be clearly contrary to national policy.

197. The PPG requires that landowners should be contacted at an early stage in relation to proposals to designate any part of their land as LGS and have opportunities to make representations⁸². Some landowners claimed at the stage one hearing sessions that this had not happened, and it is not clear to me that this process has been followed in all cases.

198. The clear message in national policy is that LGS designation is to be used sparingly, as part of the overall consideration of the sustainable planning and development needs of communities and is not a tool to stop development. The PPG also makes clear that LGS designation will need to be consistent with local planning for sustainable development in the area and must not be used in a way that undermines this aim of plan making⁸³.

199. It is clear from the allocations maps in the submitted Plan that in not only the eight sample areas I have referred to, but more generally, LGS designations have been distributed liberally within the towns, and in some cases to an even greater extent in several of the villages.

⁸² PPG Ref ID: 37-019-20140306 Does land need to be in public ownership?

⁸³ PPG Ref ID: 37-007-20140306 How does Local Green Space designation relate to development?

200. The methodology set out in the Council's Background Paper on LGS designation⁸⁴ omits any reference to the 'headline' message of *the Framework*, i.e. that LGS designation will not be appropriate for most green, open space areas. Although the document describes each site which is subject to LGS designation, often in some detail, the criteria set out in paragraph 77 of *the Framework* have demonstrably not been applied rigorously, and the resultant distribution of LGS designations in several instances can be said to apply to sites which whilst not being without a measure of attractiveness, cannot be described as being of a limited and special nature and which satisfy all of the three criteria set out in paragraph 77.
201. I recognise that many if not all LGS designations are important to local communities; however, this is a lower bar than being 'demonstrably special' and of 'particular local significance'.
202. The LGS designations in the submitted Plan for all the reasons set out above, are not in line with national policy. **MMs 20; 33; 42; 48; 51; 64; 67; 71; 74; 77; 79; 81; 84; 87; 89; 92; 94; 97; 99; 101; 103; 105; 107; 109; 112; 115; 118; 125; 128; 130; 132; 135; and 137** are necessary to remove all the LGS designations from the Plan, whilst **MM139** is required to remove section 12, covering LGS designations in open countryside. These modifications ensure the Plan is justified and accords with national policy. The Council, in response to my Interim Note, stated that the draft LGS policies and explanatory text will be withdrawn from the Plan, with the intention of reviewing LGS designation as part of the forthcoming LPR⁸⁵. This is an appropriate way forward, which I support.
203. In the absence of LGS policy in the Plan, **MM15** is required to clarify that LGS policy will be formulated in the LPR, whilst stating that LPP1 development policy 2 (Open Areas of Local Significance) still remains in force. However, this policy does not have LGS status (i.e. it does not have the power of Green Belt policy), and as LPP1 states, these open areas need to be reviewed for their ongoing appropriateness. It is expected that they will be replaced when the forthcoming LPR and/or NPs come to review them.
- Are other environmental, landscape, biodiversity and heritage policies justified, effective and in accordance with national policy?*
204. In general, LPP1 has a comprehensive suite of policies covering the environment, landscape, biodiversity and heritage. No need has been identified from any of the parties for additional policies in the Plan relating to these issues, and I see no reason to disagree.
205. However, several allocation policies have been modified to address specific environmental issues which were raised in representations, including all the allocations affected by NE's concerns over the impact of phosphates on the Somerset Levels and Moors Ramsar Site (SL&M Ramsar Site) which are covered in **MM146, 151-177 and 181**. In brief, NE expressed its concern⁸⁶

⁸⁴ MDC: Designation of Local Green Spaces; December 2017 [Examination Document SD20].

⁸⁵ MDC letter to Inspector-Draft Main Modifications; 3 December 2019 [Examination Document ED24].

⁸⁶ Letter from Natural England to several authorities, including MDC on Matters regarding development in relation to the Somerset Levels and Moors Ramsar Site; dated 17 August 2020 [Examination Document ED37A].

relating to the impact of eutrophication caused by excessive phosphates on the ecological quality of the SL&M Ramsar Site. This letter from NE is accompanied by an indicative map, which shows the Hydrological Catchment Area of the SL&M Ramsar Site, which covers the western part of Mendip District⁸⁷.

206. **MM146** requires the HRA to be updated following NE advice of the impact of excessive phosphates on the condition of the SL&M Ramsar Site, a policy stance supported by NE. The MMs referred to in the above paragraph cover specific allocations and point to the need to secure the necessary mitigation to ensure the development likely to affect the SL&M Ramsar Site is 'phosphate neutral'. These MMs are necessary to comply with national environmental policy and paragraph 176 of *the Framework*.

Is there a need for a policy to address the need to protect green gaps between settlements?

207. At a strategic level, green gaps can serve a useful purpose; LPP1 identifies two green gaps within Mendip, one to the west of Wells and the other to the west of Street. Both gaps are associated with strategic development of housing/FGAs. In Wells, the boundary has been revised to exclude an area with planning permission for residential development. In Street, a small area is identified as a FGA, to allow for additional access options and improved deliverability for the site. Both revisions are justified, and the revised boundaries are shown on the Policies Map.

208. From the evidence before me, I am not persuaded of the need for an additional policy to cover the need for the protection of further green gaps. The appropriate forum to cover this issue is the forthcoming LPR.

Issue 5 - Conclusion

209. I consider that, subject to several main modifications, the Plan's provisions for the protection and enhancement of its environmental, landscape, biodiversity and heritage assets are justified and in accordance with national policy.

Issue 6 – Are the policies to manage and promote the local economy and employment areas and allocations sound?

Are the allocations in the Plan for employment growth soundly based on sustainable principles?

210. The Plan allocates land for employment use in line with the LPP1 strategy, focusing development on sites in the main towns and key existing employment areas. All the allocated employment sites have been subject to SA. **MM13** is necessary to clarify the Plan to refer to commercial space allocated at Saxonvale (policy FR1) in the interests of the effectiveness of the Plan.
211. The updated employment land supply is set out and clarified in an amended Table 6 [**MM14**]. Resulting from the consideration of gypsy and traveller accommodation at Morlands, Glastonbury, **MM31** requires its identification as

⁸⁷ Examination Document ED37B.

a key employment site, whilst committing the local planning authority to undertake further work on meeting any future needs for employment land, and this will be in the context of the LPR. However, **MM39**, whilst making provision for gypsy and traveller accommodation at Morlands, states that the site is suitable for a range of employment uses, although priority will be given to gypsy and traveller accommodation on the remediated part of the site. These modifications are all required for the positive preparation of the Plan.

212. Concern over the shortage of employment land in the Frome area was expressed, although no robust evidence confirmed this. Neither have I seen evidence directly linking the movement of companies out of the District due to employment land shortages.

213. In order for the employment allocations in the Plan to be consistent with LPP1, **MM144** changes the definition of employment land in the glossary to include traditional employment land where the adverse impact of activities on residential living conditions would warrant specific land provision; town centre uses, such as offices, hospitality, retail and leisure uses; and commercial uses, such as motor trade uses, research and development and property management activities. **MM145** adds a definition of 'established employment areas' to the glossary, which specifically excludes freestanding supermarkets. Both modifications ensure the Plan is effective, allocating enough land in the right places to be consistent with LPP1.

How effective is the Plan in protecting existing an allocated employment sites from other uses, such as housing?

214. LPP1 policy DP20 addresses the issue of the re-use of employment sites and policy DP25 in the Plan, subject to **MM16**, draws attention to the Council's Marketing and Business Evidence Supplementary Planning Document (SPD) to support planning applications⁸⁸. The SPD provides the parameters for an independent assessment, giving guidance on sites where there is no reasonable prospect that they will be developed for their intended use. This is necessary for the effectiveness of the Plan.

215. I consider that policy DP25 and the supporting SPD, as modified, provide an appropriate level of flexibility to accord with the requirements in *the Framework*, to firstly support the building of a strong, competitive economy (paragraphs 18-21), whilst avoiding the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose (paragraph 22).

Does the Plan address the need for a housing/employment balance? Is there a balance between housing provision and maintaining an adequate supply of employment land?

216. The overall housing/employment balance was found sound as part of the LPP1 examination (Paragraphs 45-47 of the IR). As part of this commitment towards a sustainable planning balance, there are two mixed use allocations in Frome and one in Wells. I consider that policy DP25 provides several sustainable parameters which address both the location of employment land

⁸⁸ MDC: Marketing and Business Evidence SPD; [Examination Document ED14].

and several qualitative aspects which seek to ensure a satisfactory relationship between employment areas and considerations which if complied with, would ensure a sustainable housing/employment balance.

Town centres and retail development

217. Section 5 of LPP1 sets out five specific town centre strategies, which are sufficient to guide and focus development within the Mendip towns. There is therefore no need for a more prescriptive 'town centres first' approach in this Plan.

Development boundaries in relation to employment areas

218. Development boundaries are useful tools in preventing urban sprawl into the countryside. However, it is critical that these boundaries are drawn to avoid anomalies. One such anomaly exists at the eastern edge of the village of Baltonsborough, where an existing employment site, in existing policy terms would have to be considered as open countryside. **MM63** is required to address this anomaly by including the employment area within the village boundary and enables policy DP25 to be effective.

Issue 6 - Conclusion

219. I consider that, subject to several main modifications, the Plan's policies to manage and promote the local economy and employment areas and allocations are sound.

Issue 7 – Are the transport, infrastructure, implementation, development management and monitoring provisions of the Plan sound?

Are there any infrastructure needs that are not addressed in the Plan?

220. The new policy DP27 [**MM17**] addresses the highway concerns in and around Frome. Elsewhere, the evidence does not point to any specific missing infrastructure requirements which are necessary to deliver the planned growth in the Plan. The updated Infrastructure Plan⁸⁹ highlights infrastructure issues which need to be addressed for the LPR, but the current Plan can be implemented within the resources which are either existing or likely to be made available during the plan period.

Are there any 'showstoppers' which would limit the effectiveness of the Plan, for example in relation to sewerage or flood risk?

221. Wessex Water (WW) considers there is sufficient sewerage capacity to support the development allocations in the Plan, or additional investment can be put in place as individual planning applications are submitted. A comprehensive approach to sewerage and drainage, for example, has been identified by WW in relation to the sites allocated for housing on the southern fringe of Frome.

222. The EA's concerns over allocated sites in Flood Zones 2 or 3 led to the deletion of the former site FR6 at Innox Hill, Frome, in the Proposed Changes (2019).

⁸⁹ MDC: Infrastructure Plan; December 2018 [Examination Document SD19].

In relation to site FR1 (Saxonvale, Frome), the emerging masterplan can locate all the proposed dwellings outside the area of flood risk. At site ST1 (Somerton Road, Street), the development can avoid close proximity to the watercourse and associated flood risk. At site WL4 (Ticknells Depot, Wells), the northern part is within Flood Zone 1, and the supportive text states that the extent of the development would need to reflect a flood risk assessment on the site.

223. In accordance with these detailed provisions as articulated by the Council, I consider that sites FR1, ST1 and WL4 can be developed sustainably and do not present soundness issues.

224. The evidence before me does not point to any 'showstoppers', i.e. issues critical to the overall implementation of the Plan, which if unsolved could potentially derail the Plan, in relation to the strategic infrastructure provision of the Plan.

Are there any issues arising from the impact of the development allocations on the strategic highways network? If so, can these issues be overcome in a satisfactory manner?

225. The Plan takes account of the strategic concerns of HE, in particular the impact of growth around Frome on the A36 via the A361. These issues will be addressed more comprehensively in the preparation of the LPR, including the commissioning of a study of the District Highways Network, to address HE's concerns. In this Plan, three separate sites to the south of Frome are to be amalgamated into site FR3a (Land at Keyford Field) as part of a comprehensive approach to infrastructure planning, including highways and accessibility matters. Growth around the southern periphery of Frome has therefore not been planned in a piecemeal fashion.

226. From the evidence before me, I am satisfied that all the allocated sites in the Plan can be developed to meet the initial soundness concerns expressed by both HE and SCC as the local highways authority.

Are the Plan's development management policies justified and effective?

227. LPP1 contains 23 development management policies. Apart from policies DP24, DP25, DP26 and DP27, no case for inclusion of additional policies in the Plan was made. On this basis, there is no need for additional development management policies or replacement development management policies within this Plan. This issue will be covered in the LPR.

Uncertainties and risks

228. The Council closely monitors housing and employment land delivery. It has sought to reduce the risk of housing under-delivery by: (i) proposing allocations with planned delivery significantly above the minimum requirement set in LPP1; (ii) a conservative windfall estimate; (iii) any perceived 'uncertainties' and infrastructure requirements are identified within the allocation policies; and (iv) the allocations were revised during the Proposed

Changes stage to take account of delivery and other risks identified through representations to the pre-submission Plan. Also, the modifications to remove the caps on proposed housing numbers [MM5] also allow for greater flexibility in delivering housing provision.

229. Employment allocations were also reviewed at the Proposed Changes stage to ensure the Plan is effective.

230. The role and timetable of the LPR are discussed in more detail under Issue 1 of my report.

Monitoring

231. The monitoring framework, set out in LPP1 Appendix 2, will also apply to this Plan. In addition, there is regular and detailed monitoring of housing completions, the trajectory and the five-year housing land supply. There are also regular and detailed updates on employment land availability. A delivery action plan is to be published shortly.

Issue 7 - Conclusion

232. I consider that, subject to a number of main modifications, the transport, infrastructure, implementation, development management and monitoring provisions of the Plan are sound.

Assessment of Legal Compliance

233. My examination of the legal compliance of the Plan is summarised below.

234. The Plan has been prepared in accordance with the Council's LDS.

235. Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement.

236. SA has been carried out at all stages of the preparation of the Plan and is adequate.

237. The Habitats Regulations Appropriate Assessment Report, including its Addendum [January 2020], sets out why an AA is necessary in relation to four proposed development sites, all in the north-east of the District, and in relation to the Mells Valley SCA, which are covered in more detail in relation to Issue 2, concluding that these sites are unlikely to have a significant effect on features of European designated sites, provided that the policy wording regarding habitat replacement for Greater Horseshoe bats, as set out in the relevant modifications to these sites, is applied. The HRA Addendum also states that, subject to the above-mentioned modifications, of the HRA Stage 3 (Assessment of Alternative Solutions) will not be required in relation to any of these sites. Following NE's concerns regarding the potential impact of development on the quality of the ecology of the SL&M Ramsar Site, MM146 states that a HRA will be updated following NE advice of the impact of excessive phosphates on the condition of the relevant part of the Plan area.

238. Part 1 of the Plan (LPP1) includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.
239. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.
240. I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including, for example the provision of sites for gypsies and travellers. The Plan is not fully meeting gypsy and traveller needs, although MM1 is committing the Council to an almost immediate review to address the issue.

Overall Conclusion and Recommendation

241. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.
242. The Council has requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that with the recommended MMs set out in the Appendix, the 'Mendip District Local Plan 2006-2029 Part 2: Sites and Policies', satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Mike Fox

Inspector

This report is accompanied by an Appendix containing the Main Modifications (MMs).

Mendip District Local Plan 2006-2029: Part 2 – Sites and Policies**Examination into the soundness of the Plan****Interim Note - Post Hearing Advice****Introduction**

1. This Interim Note, which I referred to on the last day of the Hearing sessions, provides post Hearing advice, following the receipt of information from the Council and several other parties on a range of matters which I asked for during the two weeks of Examination Hearing sessions. Firstly, I must thank all the parties for providing me with this information, on time, or in exceptional cases, with good reason, within a relatively short period after the deadlines I set. The statements which were submitted in response to my questions can be found on the Examination website, referenced IQ-1 to IQ-34, and I have had regard to these statements in this Note, together with my consideration of all the written evidence submitted to the Examination and the discussion at the Hearing sessions.
2. At this stage, I consider that the Mendip District Local Plan 2006-2029: Part 2 – Sites and Policies (which I shall refer to as the Plan from now on), is a plan which could be found sound, subject to the main modifications (MMs) below. However, I have reached no final conclusions at this time. The MMs will be subject to consultation, and I will reach my final conclusions taking any representations into account.
3. During the Hearing sessions, several potential MMs were discussed, and Appendix 1 at the end of this Note sets these out in summary or headline form. I indicated at the Hearings that there were matters I needed to deliberate on before I could advise the Council on whether any additional work or further MMs should be considered, and this Note summarises my thoughts. This Note also sets out the administrative arrangements relating to all potential MMs.
4. I am not inviting any comments about the contents of this Note, although I am seeking the Council's response on the matters raised. I will provide the reasoning in relation to these issues in my final report on the Plan.

Potential Changes to the Plan**1. Housing Delivery**

5. Several housing allocations were challenged by representations and following discussion at the Hearing sessions, further detailed work has

been submitted by the Council. In particular, the additional work on the Council's housing trajectory [Document ED1, Table 1 and following detailed tables] has been helpful in showing when the 6,030 dwellings projected to come forward over the period 2018/19-2028/29 are to be implemented.

6. However, this figure appears to be at odds with the totals included in Note IQ-5, of 5,052 dwellings, and 5,571 dwellings in Note IQ-15. In view of these figures, it is clearly important for the Council to send me Table 1, either as it stands or amended in the light the other figures set out in IQ-5 and IQ-15, as part of a revised housing completions summary table for the District, i.e. a combined table showing all the components of housing delivery over the plan period, as a MM [Requested Document MF1].
7. This table, of course, which can be annotated if appropriate, will cover completions from 2006 and housing currently under construction (if omitted from Table 1). I note that Table 1 makes an allowance for windfalls. I am assuming that the updated total will be equal to or exceed the figure of 10,987 dwellings provided by the Council in its Matter 3 Statement; and if so, whether the 14% buffer above the minimum requirement will be exceeded. Either way, I need to know the percentage buffer now contained in the updated Plan.
8. My conclusions on the submitted evidence for the main towns and other areas are as follows:
9. Frome: The reasons advanced in support of the deletion of the bulk of the proposed Future Growth Area (FGA) as included in Mendip District Local Plan Part 1: Strategy and Policies (LPP1) from Frome are based on the Council advocating the forthcoming Single Plan Review as the appropriate way to consider this. This appears to be the appropriate course of action, and the highways evidence presented by Highways England to the Examination would in my view strongly support this approach. The increased yields for sites FR1, Saxonvale and FR3a, Land South of Little Keyford and The Mount, should be fed into the above-mentioned Document MF1.
10. Glastonbury: The constraints restricting the potential for development are recognised by most parties, which explain the relatively low contribution the settlement makes to the overall Mendip total, combined with its close proximity to Street. I support this approach.
11. The proposed allocation of housing at Glastonbury Highway depot is scheduled for 2025/26 and 2026/27 in the updated Housing Trajectory [Document ED1]. There was considerable doubt expressed over whether this site would be implemented within the plan period, and I need a detailed Note demonstrating whether its implementation is likely to occur within the plan period [Requested Document MF2].

12. Shepton Mallet: The Shepton Mallet table, included within Document ED1, shows the LPP1 allocation at Cannards Grave Road. Note IQ-6 shows that this large site is scheduled to commence in 2020, with the bulk of the 600 dwellings to be delivered within the plan period. Note IQ-6 provides useful and realistic detailed information on this site and others within Shepton Mallet, and I see no reason to disagree with this evidence.
13. Wells: I note that site WL2, for 60 dwellings on the site of the Wells Rugby Club, is dependent on the relocation of the club (policy WL3), and ED1 Table 1 projects the first completions in 2028/29, which is the last year of the plan period. I am not persuaded at present that this is a realistic proposal for inclusion in the Plan, and I am therefore requesting more information on the likelihood that the Wells Rugby Club would relocate before the end of the plan period to enable the housing development to happen [Requested Document MF3].
14. I note that the relevant information on odour assessments in relation to policy WL1, land off Bubwith Walk, Wells, is covered in Note IQ-30; however, it would appear that there is a need for previous assessment work by the developers to be reviewed in accordance with IAQM guidance, and I am hereby requesting a situation update on consultation with the relevant regulatory authorities regarding this site, and also in relation to odour impact at site WL5 – land at Elm Close, Wells [Requested Document MF4].
15. Street: The largest site, ST3, Land West of Brooks Road, Street, for up to 340 dwellings, is dependent on the preparation of a masterplan for the FGA. I need to know whether the anticipated completion dates of 2025/26 onwards, with a projected number of completions within the plan period of 170 dwellings (out of a total of 340 dwellings) are realistic; when the master plan is programmed for completion; and whether there are any other constraints affecting the development potential for this site [Requested Document MF5].
16. Land to the North-East of Mendip District: The overall distribution of development proposed in the Plan broadly conforms with the relevant policies in LPP1, with one exception. The table in policy CP2 of LPP1 makes specific reference to an additional figure of 505 dwellings; furthermore, paragraph 4.21 in LPP1 refers to the requirement to address the housing needs of the north-eastern part of the District, including land adjacent to the towns of Radstock and Midsomer Norton. These two towns are located just over the Mendip border in the local planning authority (LPA) of Bath and North-East Somerset (BANES).
17. From my reading of the LPP1 Inspector's Report and LPP1 itself, and from the discussion at the Hearing sessions, it seems to me that there is a strategic expectation that allocations for development in this part of the Plan area should be considered. I consider that in these circumstances it is appropriate for this additional element of 505 dwellings to be apportioned to sustainable settlements in the north-east part of the

District, both on sites adjacent to the two aforementioned towns within BANES, and possibly also within other settlements which lie within the District, which could lead to other sustainable benefits, for example to provide additional pupils to assist schools with decreasing complements, or where the future existence of these schools within the plan period is at risk.

18. It is not within my remit to suggest where these additional 505 dwellings should be allocated. However, several sites were suggested by representors, and these could form a starting point for the Council to put forward main modifications (MMs).
19. There would also be a requirement for sustainability appraisal (SA) in relation to any additional housing sites put forward by the Council in MMs. This work could be undertaken so that its results could be consulted on, at the same time as the MMs.
20. This total of 505 dwellings should be added to the total housing provision of the Plan [and therefore included within Document MF1].
21. Other areas/caps on development: The identification of Primary and Secondary Villages, which have a number of necessary community facilities to take a proportion of the District's growth, accords with the LPP1 strategy and is therefore supported.
22. It is essential, however, that the Council does not place arbitrary caps on development, which would be contrary to the aim of national policy to "*boost significantly the supply of housing*" [Paragraph 47 of *the Framework*]. Clearly in some areas, Green Belt, landscape designations, flood risk areas and other infrastructure constraints will limit future housing growth to zero or close to zero. However, the fact that a specific area has reached its housing target as set out in LPP1 should not, of itself, be a reason for placing a cap on future development within the plan period. A MM to paragraph 3.38 is therefore required to ensure the Plan accords with national policy in this regard.
23. It is also necessary, for the same reason, for housing allocations to delete the words "up to" and replace with "a minimum of". I accept the Council's reasoning [as set out in its Note IQ-9] that small sites of 5 dwellings or less should be exempt from this requirement.
24. My overall conclusion on housing delivery is that the Council, subject to the above suggested MMs, has sufficient housing put forward in its allocations to provide a realistic prospect of delivering the LPP1 housing provision for the District over the plan period, and that its distribution would accord with the strategy in LPP1.

2. Gypsy and Traveller Accommodation

25. There is a requirement in policy DP15 of LPP1 for gypsy and traveller provision to meet the needs as identified in the Gypsy and Traveller Accommodation Assessment (GTAA) (September 2013) by means of a Site Allocations document (90 additional residential pitches by 2020, and a further 51 pitches between 2021 and 2029, in addition to transit pitches and showmen's yards).
26. The need for gypsy and traveller accommodation in Mendip is perhaps unusual; the evidence pointed to a sizeable element of New Age Travellers in addition to other gypsy and traveller groups (e.g. Irish Travellers and Romany Gypsies). The need for this issue to be addressed in line with national policy is therefore urgent.
27. The Council's response has been to include provision for a Gypsy and Traveller Site Allocations Plan in its Local Development Scheme, and it was programmed for completion in 2019. However, work on this Plan has not yet commenced, and the Council's energies over the next few months are to work on securing a submitted Local Plan Review (LPR), to encompass parts 1 and 2, as soon as possible for sound planning reasons which were considered during the Hearing sessions. The LPR clearly needs to make provision for gypsy and traveller site allocations, in line with an updated GTAA. The Council has since updated its LDS, with a timetable to progress the gypsy and traveller plan (GTP) to adoption by May 2022, in parallel with the LPR.
28. These issues need to be addressed fully in the GTP, but there is an urgent need to address the issue in the period between now and mid-2022, in this Plan, at least in part, for the above reasons.
29. Within this context, a site at Glastonbury (Morlands) has been promoted at the Examination by Glastonbury Town Council. The latest responses by both Mendip District Council and Glastonbury Town Council to the questions I asked at the Hearing sessions are set out in Note IQ-16. The Note covers the principal factors that were discussed at the Examination Hearings. The main considerations identified by the Council and which unchallenged would weigh against the appropriateness of the site for gypsy and traveller accommodation include: potential ground contamination, proximity to a sewage treatment works, flood risk and the fact that the site is an employment land allocation.
30. However, the report by independent consultants states [summarised in Note IQ-16] advises that a membrane placed over the area and covered with hardcore could be acceptable for travellers' accommodation; updated odour modelling would provide more clarity; and the Environment Agency (EA) has advised that, providing that a minimum of 300mm height is maintained above the Flood Zone 2 land, its concerns are mitigated. To my knowledge, no employment use is currently seeking to locate on the site. My preliminary view therefore is that the Morlands site should be

included as a MM, and I will consider carefully any representations made during the MM consultation.

3. Local Green Space

31. The Council set out its methodology for selecting areas to be designated as Local Green Space (LGS), and it also responded to my request for detailed LGS work sheets [Notes IQ-17, 18 and 19]. In order to make the request manageable, I restricted the sample to the proposed LGS designations that were the subject of representations, and which were also raised at the Hearing sessions.
32. The sample included three of the main towns, and five of the villages, and I consider this to be a representative sample of the District. In addition to showing the proposed LGS designations, the maps included in the Council's evidence show areas of green space which were reassessed and removed from LGS designation following pre-submission consultation; sites that were drawn to the Council's attention as potential LGS and assessed but rejected; and areas of green space that were not assessed. I also requested the Council to show Conservation Areas, Flood Zones 2 and 3, and protected recreation areas/playing pitches/playing fields. The Council complied fully with my request. I also visited some of the sites which are subject to proposed LGS designations.
33. It is clear that the Council has put in a lot of work into preparing its proposed LGS designations in the Plan. However, unlike a 'call for sites', which LPAs are encouraged to do in the interests of maximising opportunities for housing development to meet the needs of Districts, national policy in relation to LGS designation is completely different.
34. National policy, as expressed through *the Framework* and National Planning Policy Guidance (PPG), sets a very high bar for LGS designation. The opening sentence, which amounts to the 'headline' message, in paragraph 77 of *the Framework*, states that LGS will not be appropriate for most green areas of open space. This is a clear message that the bar for LGS designation is set at a very high level. I therefore consider that it is clear from national policy that LGS designation should be the exception rather than the rule. One good reason for national policy setting this high bar is explained in paragraph 78 of *the Framework*, which states that local policy for managing development within LGS should be consistent with policy for Green Belts.
35. In order to reinforce the message that LGS designation is to be used sparingly, paragraph 77 of *the Framework* sets out three criteria, which spell out where LGS designation should only be used. It is clear from the phraseology that all three of these criteria are necessary for LGS designation. These criteria state that LGS designation should (i) only be used where the green space is in reasonably close proximity to the community it serves; (ii) where it is demonstrably special to the local

community (holding a particular local significance); and (iii) where it is local in character and is not an extensive tract of land.

36. Para 76 of *the Framework* places LGS designation in the context of provision of sufficient homes, jobs and other essential services. Therefore, LGS designation has to be integral to the proper planning for the future of communities, and not an isolated exercise to put a stop on the organic growth of towns and villages, which would be contrary to national policy.
37. The PPG sets an equally high bar in relation to LGS designation and requires that landowners should be contacted at an early stage about proposals to designate any part of their land as LGS and have opportunities to make representations [ID: 37-019-20140306]. Some landowners at the Hearing sessions claimed that this had not happened, and it is not clear to me that this process has been followed in all cases.
38. The clear message in national policy is that LGS designation is to be used sparingly, as part of the overall consideration of the planning and development needs of communities and is not a tool to stop development. The PPG also makes clear that designation of any LGS will need to be consistent with local planning for sustainable development in the area and must not be used in a way that undermines this aim of plan making [ID: 37-007-20140306].
39. It is clear from the allocations maps in the Plan, that in not only the eight sample areas I have already referred to, but more generally in relation to all the maps in the Plan, LGS designations have been distributed liberally within the towns and to an even greater extent in several of the villages.
40. The methodology set out in the Council's Background Paper- 'Designation of Local Green Spaces' [Document SD20] omits the 'headline' element of *the Framework*, that LGS designation will not be appropriate for most green areas of open space, and nowhere in this document does that message come through. Although the document describes each site subject to proposed LGS designation, often in some detail, the criterion of being demonstrably special to the local community is not sufficiently rigorous to comply with national policy, and the resultant distribution of LGS designations in several instances can be said to apply to sites which can be described as commonplace (which I do not¹ view as a negative term) rather than of a limited and special nature.
41. I recognise that many if not all the proposed LGS designations are important to local communities; but this is a lower bar than being 'special' and of 'particular local significance'.

¹ Amended from ...(which I do view...) - Mike Fox - 27/1/20

42. In the Council's detailed evidence provided in relation to the eight sample areas that I requested, several proposed LGS designations are already within Conservation Areas, and in a few cases within Flood Zones 2 and 3. Moreover, there are examples of extensive tracts of open land, some of it in agricultural use, in particular on the edge of some villages, where LGS designation appears to be at odds with national policy. These factors were not adequately considered in the LGS assessment work.
43. In some villages for example, several green spaces, including agricultural fields, are joined up to form extensive tracts of land, several of which are located within Conservation Areas and other protective designations, which is contrary to national policy. In some villages, the proposed LGS designations approximate to up to a quarter of the entire urban area of the relevant villages, often with Conservation Area coverage and other constraints.
44. Consequently, I suggest the Council has two options:

Option 1: To delete the LGS designations from the Policies Map and remove references to LGS designation where they appear in the Plan. Taking the above factors into account, the Council could then undertake a comprehensive review of LGS methodology and assessment as part of its work on the emerging LPR. MM7 would reflect the Council's decision to follow this option.

Option 2: To revisit the methodology and designations, taking on board the considerations I have highlighted above. This would entail a suspension of the Examination until the additional work and consultation is completed. It may also be necessary to hear evidence on this matter at a further Hearing session. This would inevitably result in a significant delay to the Examination.

Next Steps

45. The Council should consider its options in relation to LGS designation and also submit its responses to Requested Documents MF1-MF5.
46. Details of the work which the Council intends to undertake, together with timescales for the work, should be clearly set out in a Note to the Programme Officer as soon as is practicably possible.
47. The additional MMs which will be required as a consequence of the issues raised by this Note will need to be incorporated into a consolidated schedule of all the potential MMs. The Council should also consider the need for any consequential changes to the Plan and the Policies Map in connection with any potential MMs. All changes to the Policies Map must be made available for comment alongside the MMs.

48. I will need to see the draft schedule of MMs and changes to the Policies Map, and it is possible that I could have further comments to make. I will also need to see the final version of the schedule before it is made available for public consultation. In Appendix 1 below, I have set out a draft summary of the key points to be included in the potential MMs.
49. The Council should satisfy itself that it has met the requirements for SA in respect of the allocation of sites in relation to the 505 dwellings which is included in the table attached to LPP1 policy CP2. This new SA could be attached as an Addendum to the main body of the SA. The Addendum should be published as part of the future MMs public consultation.
50. If the Council wishes to produce a list of proposed Additional Modifications (also known as Minor Modifications), these are solely for the Council, as they do not go to the soundness of the Plan, and it should be made clear that such changes are not a matter for the Inspector.
51. Advice on MMs and SA, including on consultation, is provided in 'Examining Local Plans Procedural Practice'. This states that the scope and length of the consultation should reflect the consultation at the Regulation 19 stage (usually at least 6 weeks). It should be made clear that the consultation is only about the proposed MMs and not about other aspects of the Plan, and that the MMs are put forward without prejudice to the Inspector's final conclusions.
52. The Procedural Practice also states that the general expectation is that issues raised on the consultation of the draft MMs will be considered through the written representations procedure, and further Hearing sessions will only be held exceptionally.
53. I look forward to hearing from the Council as soon as practicably possible, with its suggested work programme, its responses to my requests for information [MF1-5] and its decision as to which way it wishes to pursue the matter of LGS designation. If there are any queries or matters that require clarification, please contact me through the Programme Officer.

Mike Fox

Inspector

10/9/19

Appendix 1

Mendip Local Plan Part 2

Draft Schedule of Main Modifications (MMs)

- MM1 With the exception of sites of 5 units or less, in all housing allocations policies, delete “up to” and replace with “a minimum of”. [See wording in IQ-9].
- MM2 New policy - LP1 -committing the LPA to an early Review of the Local Plan, specifying a target date for submission to PINS. [Wording as per IQ-4].
- MM3 Explanatory text to new policy LP1 [Wording as per IQ-4].
- MM4 Add the following sentence to para 3.38: “However, small residential development schemes on sustainably located sites within all Primary and Secondary Villages, will in principle be acceptable, subject to environmental and infrastructure considerations and impact on the living conditions of neighbouring residential occupiers.”
- MM5 Allocation of 505 additional dwellings (with reference to the table in core policy CP2 and para 4.21 of the supporting text) in the north-east of the District, at sites adjacent to Midsomer Norton and Radstock, and on sustainable sites at primary and secondary villages within this part of the District. All the sites considered for possible allocations, including those identified in Note IQ-3, will be subject to Sustainability Appraisal.
- MM6 Allocation of site at Morlands, Glastonbury, for gypsy and traveller accommodation, subject to a set of parameters. [See Note IQ-16]
- MM7 Delete all LGS designations and indicate that they should be reconsidered within either Neighbourhood Plans or the Local Plan Review.
- MM8 Extend development boundary at Baltonsborough to include existing employment site at eastern end of the village.
- MM9 New section to policy DP25 (Employment Land) to clarify provisions for marketing of employment land prior to applying for a change of use, and to refer to the Council’s SPD on marketing and business evidence. [See Note IQ-23.]
- MM10 Clarification of the Housing Trajectory, to include three categories – (a) 5-year period; (b) remainder of plan period; and (c) beyond the end of the plan period. The trajectory is to be published within LPP2.
- MM11 Updated Table 4, to include additional rows to cover (a) the new allocations in the north-east of the District; and (b) overall totals for Mendip.
- MM12 Change to policy FR3a (Land South of Little Keyford and The Mount), to increase total to at least 325 dwellings. [See Note IQ-13].
- MM13 New policy to address the impact of the Local Plan housing allocations on the Strategic Road Network; and to address more detailed matters, including key highways links and junction improvements in the Frome area. [Wording set out in IQ-20a]

- MM14 Changes to policy BT1(Land at West View, Butleigh), to clarify the LPA's response to concerns such as soil conditions/subsidence and impacts on heritage assets. [Wording set out in Note IQ-32a; agreement with LPA suggested wording.]
- MM15 Changes to policy WM1(Land at Court House Farm, Westbury sub Mendip), to clarify what is required from the LPA in terms of requirements for community facilities. [See Note IQ-33 for wording].
- MM16 Include new definition of affordable housing in glossary, to reflect the 2019 NPPF.
- MM17 Changes to policy FR2 (1), to refer to a minimum of 200 dwellings, making provision for affordable housing in line with relevant policies, and approx. 4.5 ha of employment uses to include B1, B2 and B8 premises, commercial (to include Use Class A3/A5) and retail units. Changes to FR2 (7), include 'provisionally' after 'include'. [See Note IQ-25].
- MM18 Changes to policy FR1 (Saxonvale), to include provision of new footpath river crossing and clarify provision of at least 250 new homes.
- MM19 Change bullet point 7 of policy FR3a to read: "Each part of the site should contribute appropriately to achieving effective mitigation of the potential loss of and provide enhancement for biodiversity, ensuring that habitat connectivity is maintained throughout the site and with the wider countryside."
- MM20 Change explanatory text to policy FR3a, under 'Landscape and Ecology' to reflect the change to bullet point 7. [Wording as per IQ-2]
- MM21 Change bullet point 8 of policy FR3a (Land South of Little Keyford and The Mount), to add after "properties", "with regard to noise, disturbance, overlooking, privacy, outlook, odour and pollution".
- MM22 Change policy FR3a to include the requirement for a masterplan approach [See wording in Note IQ-26].
- MM23 Change policy ST1 (Land West of Somerton Road) to increase housing allocation from 200 to a minimum of 280 dwellings.
- MM24 Change policy WL4 (Tincknells Depot) to add additional bullet point 9, to read: "All houses will be required to be located outside flood zones 2 and 3.
- MM25 Change policy CX1 (Land adjacent to the Pound Inn and A30, Coxley), bullet point 3, and replace with: "Development to be restricted to flood zone 1 only."
- MM26 Include new, more detailed description of employment land [As set out in Note IQ-21].
- MM27 Revised housing completions summary table for the District [see Interim Note, paragraph 6]

MENDIP DISTRICT

LOCAL PLAN

2006-2029

PART I: STRATEGY AND POLICIES



ADOPTED 15TH DECEMBER 2014



Mendip District Local Plan Part I: Strategy and Policies
2006 – 2029
Adopted 15th December 2014

Erratum

Policy	Correction
Core Policy 4: Sustaining Rural Communities Bullet point 4:	Reference to “ ... development of the rural economy as set out in <u>Core Policy 2</u> ...” should refer to <u>Core Policy 3.</u>

22nd May 2015

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1.0 INTRODUCTION

- 1.1 The Mendip District Local Plan Part I sets out a long term strategic vision for the future of the District and how it will develop over the next 15 years. The Plan has been shaped and informed by a comprehensive evidence base and a changing context to planning at both a national and regional level. Consultation, formal and informal, has helped to identify key local issues and then probe in more depth on particular matters. This plan now sets out how the Council intends to stimulate the development which the district needs including housing, economic development and infrastructure. It also puts in place a selection of policies to manage development in a manner appropriate to this district which generic national policy would not adequately cover. A further part of the plan, Part II: Site Allocations, will be prepared by the Council to allocate and/or designate specific sites for development or other purposes in line with the intentions of the policies in this Part I document.

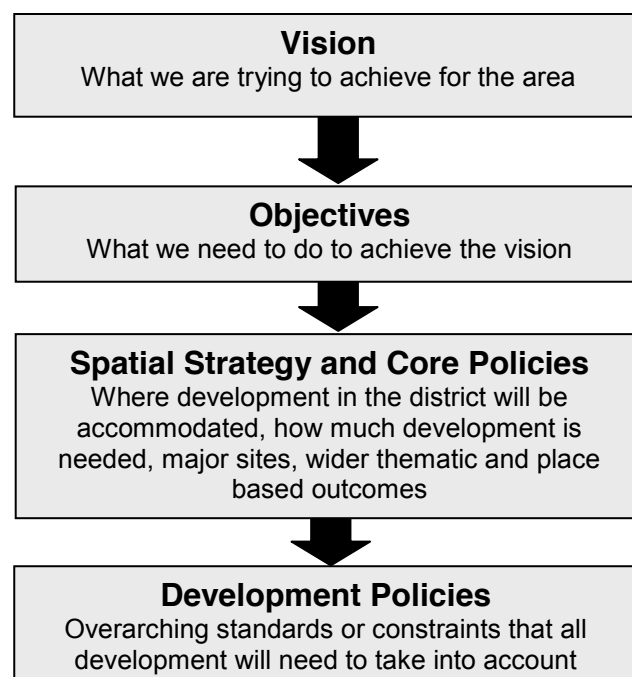
The Local Plan

- 1.2 The Local Plan is the statutory Development Plan for the district. This Part I Plan, together with the forthcoming Part II Plan, will supersede the 2002 Mendip District Local Plan in its entirety. When brought into use it will primarily be used as the main basis for decision making in relation to planning applications made to the Council. However, the confirmation of the main development proposals in the plan will also stimulate an extensive array of joint working between landowners, developers, communities, public service providers, utility companies, interest groups and many others to help ensure that proposals formulated deliver the best and most sustainable outcomes possible. This plan is just the beginning. Its outcomes will depend upon effective coordinated and collaborative participation.
- 1.3 To this end, there are some clear distinctions between this plan and its predecessor. National policy since 2004 has sought to shift the emphasis of the planning system away from rigid policies that sought to control every conceivable possibility in the development and use of land, towards a broader framework that instead focused on Spatial Planning – planning for places and outcomes.
- 1.4 This document, Part I of the Local Plan therefore establishes an overarching development **Vision** and key **Objectives** for the area based on evidence and consultation which subsequent policies and proposals will aim to deliver.
- 1.5 Furthermore, once the Local Plan Part I is adopted, all other parts of the planning framework for the area must be aligned with its intentions in order that a coherent and consistent basis for decision making is established. This is discussed in the following subsection.
- 1.6 Having established these, this document then goes on to make the big decisions about broadly what scale of new development is needed, where that growth should be located, which key initiatives or projects to pursue and other key principles. This plan contains an overall spatial strategy for the district, broad principles to direct how development will take place across the extensive rural part of the district as well as specific policies for each of the five towns. These aspects are set out in the **Core Policies** of this plan contained within sections 4 and 5.

Spatial Planning

Spatial planning aims to bring together and integrate policies for the development and use of land with other strategies and programmes which influence the nature of places and how they function. As a result, the nature of Local Plans will vary from area to area with districts and unitary authorities preparing policy documents in response to specific local needs and issues. The policies and proposals in this Plan are consistent with national policy, but will be used to add specific emphasis to reflect local circumstances. A key feature of this approach is to build in flexibility. Old style rigid policies, frequently applied in the past on a very 'black or white' basis, have resulted in development that passes the policy tests, but along the way have failed to deliver the outcomes intended. A Spatial Planning framework, provided by this Local Plan, accepts that the wider benefits of proposals for a particular place are central, rather than the policies themselves. However, this still requires that proposals inherently contribute to the achievement of sustainable development as discussed later in this introduction.

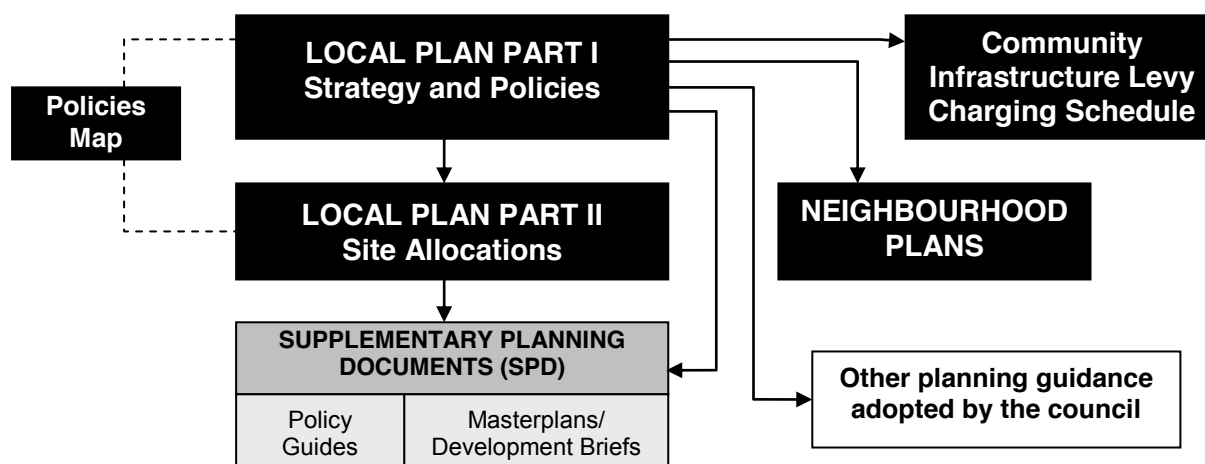
- 1.7 Beyond this, the plan then sets out **Development Policies** in section 6 which will be applicable, to a greater or lesser degree, to all proposals for development. There are Development Policies, which together with the National Planning Policy Framework, will enable the Council to manage impacts on areas where there are constraints on development or where the Council is seeking to manage particular effects. In most cases the policies are permissive – i.e. saying what can be achieved – but put in place relevant criteria which will need to be satisfied during the conception or design stages of preparing a development proposal. To this end, the Council will continue to encourage early dialogue with those considering development in order that subsequent applications are well founded.



- 1.8 The adjacent diagram outlines in a visual form the broad structure of this Local Plan Part I and the role which the key components play.

Other Parts of the Council's Planning Framework

- 1.9 This Local Plan Part I, as the cover and content indicates, sets out the strategy and policies that the Council will pursue to meet its development needs and accommodate other development opportunities that emerge during the period to 2029.
- 1.10 However, other documents will be needed to address specific development issues. The diagram below illustrates the documents which the Council intends to prepare in coming years. Production of these documents will be timetabled within the Local Development Scheme which outlines how and when the Council will update and add to its planning framework.



- 1.11 Those elements identified in black are parts of the statutory Development Plan which are subject to national regulations governing their preparation and formal independent Public Examination. Identified in grey are Supplementary Planning Documents which can be adopted locally, but are subject to a preparation process defined by national regulations. The final white box would include other forms of guidance prepared, consulted upon, and adopted locally which would form significant Material Considerations in planning decisions.

The following paragraphs provide a simple outline of the role and nature of the components above:

- **Local Plan Part II: Site Allocations** – a Development Plan Document (DPD) which will identify sites to deliver specific, but non strategic, development needs as guided by the principles contained in this Local Plan Part I document. The Site Allocations document may also include

designations of other land to safeguard it from development where justified. Where development sites are considered significant in their setting, the Council may require that a formal Masterplan or Development Brief is prepared and adopted as a Supplementary Planning Document (SPD).

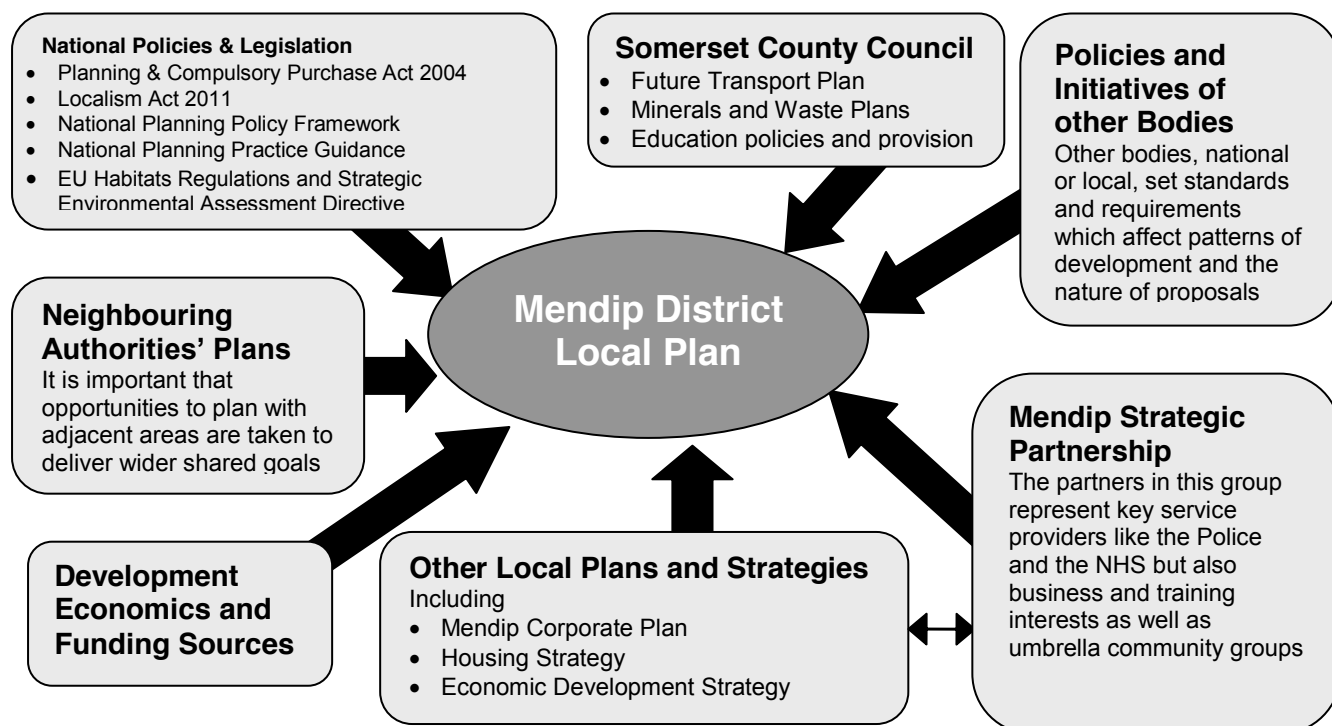
- **Policies Map** – is the geographical representation of planning policies relevant in the area contained within the Local Plan (Parts I and II). Using an Ordnance Survey base map it will detail relevant land designations as well as policy boundaries and land allocations.
- **Neighbourhood Plans** – introduced by the 2011 Localism Act, are parts of the statutory Development Plan relevant to a specific local area and represent policies and proposals made at a community level as guided by the principles contained in this Local Plan Part I document. These are discussed further in a following Section related to the Localism Act.
- **Community Infrastructure Levy Charging Schedule** – The Community Infrastructure Levy (CIL) is a development tariff which in future years will be collected to fund the delivery of infrastructure needed to support local growth. It is discussed further in relation to Development Policy 19. The Charging Schedule sets the level of tariff which the Council will charge for specific types of development expressed per square metre.
- **Supplementary Planning Documents (SPD)** - are documents which offer an opportunity for the Council to provide more detail about how a Local Plan proposal or policy will be applied, or in the case of Development Briefs and Masterplans, how a particular development site might be planned. Text related to Development Policy 7 explains more about these.
- **Other Planning Guidance** – is made up of other strategies and sources of information which are considered to be important for planning purposes. This currently includes Area of Outstanding Natural Beauty Management Plans, Conservation Area Character Appraisals, Village Design Statements and some Parish Plans. Such guidance will still be required to have undergone appropriate levels of local consultation and be subject to a formal Council resolution to adopt them.

1.12 Alongside the main policy framework, the Council will produce or update two main supporting documents periodically:

- **Authority's Monitoring Report** – This document will report upon delivery and effectiveness of the Local Plan's policies and proposals and be a means to highlight where changes or amendments might be needed to policies in any future review.
- **Local Development Scheme** – This document will set out a timetable for the production and review of parts of the Local Plan in order that interested parties can be clear when particular strands of work will be published for consultation or are to be adopted.

The Context within which we Plan

- 1.13 The District Council does not have a free hand in planning for the district's future. Whilst the Localism Act 2011 gives local authorities and communities new powers and responsibilities devolved down from central government, it remains there will always be national planning policies which the Council is bound to work within. As set out in relation to spatial planning above, the Local Plan must also rationalise how it can deliver the goals and aspirations of the community, public service and, most crucially, private investment.
- 1.14 The diagram below outlines many, but not all, of the influences which the Council has sought or been required to incorporate into its thinking.



- 1.15 Some of the key influences are explored in the following paragraphs:

National Planning Guidance

- 1.16 The Local Plan works within alongside, and takes account of, the [National Planning Policy Framework \(NPPF\)](#) which set out the Government's policies on different aspects of planning.
- 1.17 At its heart it must be in broad conformity with national policy, now primarily encapsulated in the NPPF which states in para.6 that "the purpose of the planning system is to contribute to the achievement of sustainable development."
- 1.18 Sustainable development is defined in United Nations resolution 42/187 as "*development that meets the needs of the present without compromising the ability of future generations to meet their own needs.*"
- 1.19 The NPPF restates the long held rationale for the planning system, namely to maximise, collectively, the social, economic and environmental benefits in the development and use of land. The Vision and Objectives set out in section 3 are predicated on this rationale.
- 1.20 In essence, sustainable development is already embedded within this plan and the key challenge is therefore more about the application of sustainable development principles in specific circumstances and at a site based level. The Council will continue to adopt a positive approach in seeking to meet the objectively assessed development needs of the district. The strategy and policies in this Local Plan (and its subsequent parts) provide a clear framework to guide development that delivers positive, sustainable growth.



- 1.21 Paragraph 14 of the NPPF sets out a **Presumption in Favour of Sustainable Development**, which makes it clear that proposals that accord with Local Plans should be approved without delay. In assessing and determining planning applications the Council will apply the overarching policy approach set out below.

Presumption in Favour of Sustainable Development

When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will work proactively with applicants to seek solutions which mean that proposals secure development that improves the economic, social and environmental conditions in the area.

1. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise.
2. Where there are no policies relevant to the application or relevant policies are out-of-date at the time of making the decision, the Council will grant permission - unless material considerations indicate otherwise – taking into account whether:
 - Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
 - Specific policies in that Framework indicate that development should be restricted.

- 1.22 There may be instances where the Plan is silent or in future years, policies become out-of-date. To enable the Council to continue to take a sustainable and positive approach to decision making, applicants will need to assist by submitting evidence to demonstrate how the benefits of the proposal outweigh any adverse impacts. In this way economic, social and environmental responsibilities can continue to be met without compromising the ability of future generations to meet their own needs and well-being.

Sustainable Community Strategy

- 1.23 The Mendip Sustainable Community Strategy represents the collaborative strategy of a range of partners who work together as the Mendip Strategic Partnership. As an entity, the partnership has few resources of its own, but has a role in agreeing joint working using member resources and budgets to collectively support and deliver each others aims. With representative views from the public, private and voluntary sectors they have established an overall vision for the future of the Mendip area which is set out in the Sustainable Community Strategy which was adopted in 2010.
- 1.24 The early stages of production of this Local Plan were coordinated with the production of the Sustainable Community Strategy in order that the development visions set out in section 3 of this document are consistent with the wider vision being pursued by partner groups.

Mendip Corporate Plan

- 1.25 The Mendip [Corporate Plan](#) has evolved during the production of this Local Plan reflecting the need for the Council to deliver clearer and more focused priorities. The objectives of this Plan remain consistent with the current corporate priorities, namely:
- to support business development and growth
 - to take all steps possible to support the provision of housing in the district
 - to address issues of rural isolation, primarily through ensuring partner activity
 - to take a clear strategic and community leadership role for the district

The objectives and subsequent policies of the Plan align directly with these priorities.

“Time to Plan”: The Preparation of this Local Plan

- 1.26 “Time to Plan” has been the name of the publicity campaign used throughout the production of this Local Plan. In early 2008, formal consultation (under the previous Local Development Framework arrangements) commenced with a phase of agenda setting dialogue. This work, undertaken as a joint exercise to inform the Sustainable Community Strategy, allowed local people, businesses and other interests to highlight issues in their locality. Where possible the Council also worked with community groups, such as ‘Shepton 21 and [‘Vision for Frome’](#), allowing strategic and local issues to be gathered in one exercise. Over 1,200 people came along to one of the 6 public events held across the district. This attracted over 1,800 individual responses on a whole range of issues, as well as many hundreds of place based points arising from mapped exercises.
- 1.27 Following on from this consultation phase, a Stakeholder Workshop in July 2008 involving a wide range of public, private, governmental and voluntary sector interests from within and outside Mendip came together to consider the key findings and identify local priorities for the Sustainable Community Strategy and the Core Strategy (as it was then referred to). In light of the outcomes, the Mendip Strategic Partnership was able to agree an overarching vision statement for the Sustainable Community Strategy which in turn helped to frame a ‘spatial vision’ and ‘strategic objectives’ to provide an overall direction for the Core Strategy (which is set out in section 3 of this Local Plan). In the following months specific visions for each of the five Mendip towns were also drawn together to provide a strategic view of their development needs. These vision statements were endorsed by the Council’s executive in the autumn of 2009 and are set out in section 4 of this Local Plan.
- 1.28 After consolidating all the material from the initial phase of consultation and evidence gathering, a set of six ‘Portraits’¹ were pulled together. These documents drew together an understanding of each of the five towns and of the district as a whole, taking in relevant parts of the evidence base, consultation responses and monitoring data. The information was supplemented in many cases with information from face to face meetings with service providers, community leaders and other interests including local businesses, voluntary groups and representatives of minority groups. The ‘Portraits’ effectively provided a baseline source of information for the production of both the Core Strategy and the Sustainable Community Strategy.
- 1.29 Alongside this consolidation of information, a detailed consultation paper² was prepared setting out various questions in response to issues where there were realistic choices to be made. The document focused on issues relevant in each of the Mendip towns, promoting sustainable rural development as well as a range of topic based issues applicable across the district as a whole. This was published for a formal eight week consultation period at the start of 2009. The exercise attracted 475 individual responses.
- 1.30 As a roundup to the initial two rounds of consultation, a summary report³ of the issues raised was prepared in mid 2009 as a means to consolidate the views of contributors.
- 1.31 During 2009 and 2010 it became apparent that one of the foundations of the planning system that was present at that time, Regional Spatial Strategies (RSS) were likely to be abolished which was confirmed in 2010 following the formation of the Coalition Government. One of the key consequences of this was that the Council had to move from having a defined development strategy and a fixed level of housing provision towards a strategy that was predicated on local needs and demands. As a result, an extensive range of new evidence was gathered to underpin what were then termed “local development requirements.” At the time of publication, the government’s attempts to abolish RSS had yet to be concluded. Nevertheless, the proposals in this



¹ Portraits of Frome, Glastonbury, Shepton Mallet, Street and Wells as well as the Portrait of Mendip (December 2008)

² Time to Plan Consultation Paper (December 2008)

³ Time to Plan Consultation Responses Summary Report (July 2009)

Local Plan Part I are not radically different from the intentions of the RSS, due primarily to the general consistency in the fundamental planning principles set out in national policy.

- 1.32 In February 2011, having responded to the impending removal of RSS as well as working through the issues emerging from the preceding Consultation Paper, the District Council published what was then called its Draft Core Strategy setting out its preferred options for public consultation. That draft plan was broadly similar in structure to this document, setting out a Vision, Objectives, Core Policies and Development Policies. A range of events were held to coincide with the consultation period as well as summary proposals being sent to every household. 400 written representations were received.
- 1.33 The latter part of 2011 and early 2012 saw proposals by Government to do away with the national policy contained within Planning Policy Statements (PPS), Planning Policy Guidance notes (PPGs) and a range of other policies and circulars and to consolidate them within the [National Planning Policy Framework \(NPPF\)](#). This was subsequently published in March 2012 and introduced new uncertainty. The Council chose to hold back the publication of this pre-submission draft to consider the implications of the new NPPF. This delay conveniently enabled new background evidence about local demographics, economic growth land supply and housing need to be built in, in addition to work needed to introduce new policies where the NPPF had left policy gaps in the Plan.
- 1.34 It was also during this period that the Localism Act came into being. Associated government guidance brought an end to the complicated and confusing terminology associated with the Local Development Frameworks system that had been in place since 2004, instead asking local authorities to return to using the term Local Plan.

The Evidence Base

- 1.35 To inform the production of this Local Plan, and future parts of the Council's planning framework, it has been necessary for the Council and its partners to develop a range of evidence to justify its content. "[Evidence Base](#)" is the collective term used to describe all of the background studies and work, including consultation views, which have and will continue to inform plan making and planning decisions. The full range of information gathered together by the Council is available to view on the website or on request from the Council's offices. All parts of this Local Plan have been informed by evidence, whether in the form of consultation views, official statistics or specific studies.
- 1.36 The Council has a duty to keep this information current to ensure that its flexible policies, when used for decision making, draw upon the most up to date information the Council can get about circumstances and conditions prevalent across the area. As stated before, the plan is a framework and the Council intends to regularly review its evidence so that decisions reflect current circumstances.
- 1.37 Throughout the preparation process of this plan, stakeholders and contributors have been challenged to identify or produce evidence to back their assertions, particularly where fundamental policy stances would result. Where necessary, the Council has also prepared technical papers which bring together various sources of evidence. These papers explore particular issues weighing up alternative approaches and considering their relative impacts. These approaches have ensured that the Local Plan is based on rational and objective decision making, rather than being unduly influenced by unsubstantiated opinions or unqualified assumptions which could ultimately undermine the soundness of the overall strategy.

Regulatory Requirements

- 1.38 The preparation of this Local Plan has been undertaken in line with processes set out in national planning policy and associated statutory regulations. Where relevant, other sources of guidance have been taken into account including that produced by the Department for Communities and Local Government, the Planning Advisory Service and the Commission for Architecture and the Built Environment.
- 1.39 In terms of specific regulatory requirements, the following points itemise specific processes and regulations that this plan had to be assessed against:

- **Sustainability Appraisal (SA)** is a mandatory requirement under the Planning and Compulsory Purchase Act 2004 and helps to fulfil the objective of achieving sustainable development in preparing projects, policies and plans. To ensure that policies and proposals in the Local Plans contribute to sustainable development, each document produced will be subject to a Sustainability Appraisal, incorporating the requirements of the EU Directive on Strategic Environmental Assessment (SEA). The auditing process of the SA leads to more informed and transparent decision-making and helps to achieve the aims of sustainable development in Mendip.
- **Habitat Regulations Assessment (HRA)** is required following a ruling in October 2005 by the European Court of Justice that land-use plans including Local Plans should be subject to an 'Appropriate Assessment' of their implications for European Sites. European Sites are nature conservation sites which have been designated under European Law, for example Special Protection Areas (SPAs) and Special Areas of Conservation (SACs), as well as species outlined in Regulation 10 of the Habitats Regulations 1994.
- **Equalities Impact Assessments (EqIA)** are required under the Race Relations (Amendment) Act 2000, Disability Discrimination Act 2005 and the Sex Discrimination Act 2007. Impact Assessments are a systematic way of examining whether new or existing functions, policy or procedures differentially affect any person or group of persons.
- **Community Involvement Regulations** require that the Council sets out evidence of how it has engaged the community in plan making when preparing a development plan document. This is partially summarised in paragraphs 1.26 - 1.34 above with a full account being available on the Council's website. Full consultation statements were published after each stage of engagement.

Copies of all of these documents are available on the Council's [website](#)

Delivery and Monitoring

- 1.40 Delivery of the proposals of the Local Plan is a critical consideration. The content of this document has been based upon a sound understanding of issues, evidence and views relevant to the area and of its constituent communities, however the ability to deliver proposals has also been an important consideration.
- 1.41 Accompanying this Local Plan is a Delivery Plan which sets out how key proposals and projects of the Core Policies will be delivered, including where relevant, the roles of other parts of the planning framework. The Delivery Plan itemises the proposals, key partners/agencies, timescales and other details which, during consultation and further work, will be refined to make it clear how things will happen on the ground. The Delivery Plan also itemises elements of key infrastructure which will need to be provided as part of development, through legal agreements associated with planning consents or through development contributions which in future may be accumulated via a Community Infrastructure Levy (CIL)⁴
- 1.42 Appendix 2 of this document sets out a range of indicators against which policies – notably the Development Management Policies in section 6 – will be assessed to determine their effectiveness over their lifetime, and where appropriate trigger reviews or other support mechanisms to ensure they better achieve the aims set out within the overall Local Plan objectives set out in section 3.
- 1.43 Reporting progress on delivery and effectiveness of policies will be through the Authority's Monitoring Report as considered previously.

Status of policies and supporting text in the Local Plan

- 1.44 For the avoidance of doubt, both the policies and the supporting text of all parts of the Local Plan make up the statutory Development Plan for the purposes of determining planning applications.

⁴ See Development Policy 19 and its supporting text

2.0 A PORTRAIT OF MENDIP

Issues facing the District

- 2.1 This section of the Local Plan provides an account of the issues facing the Mendip area as distilled from the background evidence that has been used to inform this plan. By exploring the issues that arise across the area, this offers context and establishes the basis for the subsequent policy statements and proposals contained later in the plan.

Location and characteristics

- 2.2 Mendip is a rural district, covering an area of 738 square kilometres. The district contains five principal towns: Frome, Glastonbury, Shepton Mallet, Street and Wells. They each function as 'market towns' and meet a high proportion of the everyday needs of their residents and those of their rural catchments. There are in excess of 100 smaller rural settlements, varying in size from the largest villages like Coleford and Chilcompton (population circa 2,000) through to the smallest of hamlets which may consist of a dozen or so houses. In 2006, the base date for this strategy, the district had an estimated population of 108,300 with around two thirds living in the five main centres. Frome is the largest town while Glastonbury is the smallest.

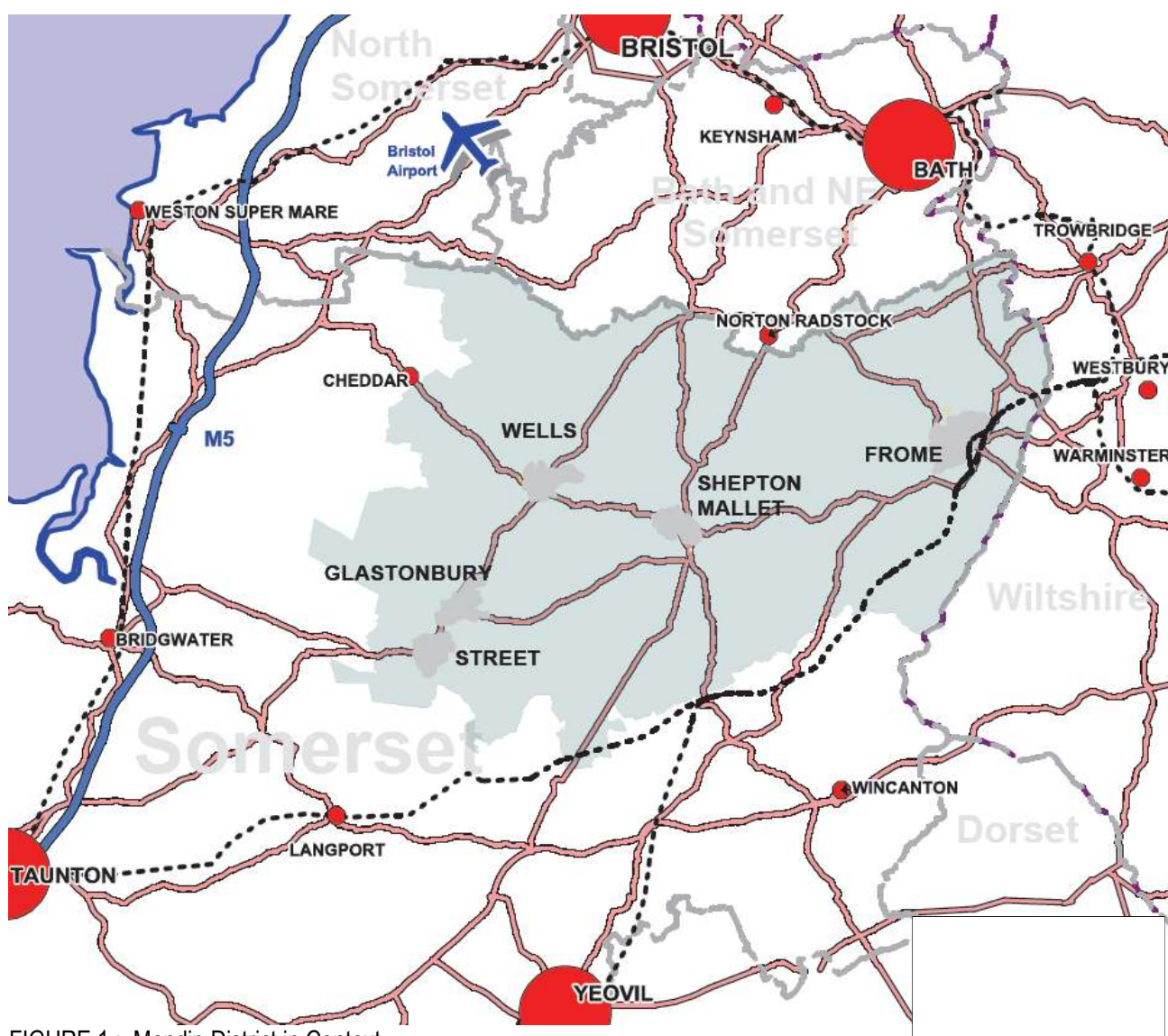


FIGURE 1 : Mendip District in Context

- 2.3 Whilst containing five towns of varying characteristics, the district is influenced by centres that lie outside its boundaries to greater or lesser degree. To the south and west, Yeovil and Taunton draw trade and workers from the area to some degree, however Bristol and Bath to the north have a much greater degree of influence. They attract commuters to comparatively better paid jobs, shoppers for a wider choice of higher order goods and place pressures on local housing markets.

The market towns of Midsomer Norton and Radstock, in Bath and North East Somerset, immediately adjoin the northern boundary of the district and meet some of the needs of residents of nearby Mendip villages.

- 2.4 Frome and the rural communities to the east of the district have strong links with the Wiltshire towns of Trowbridge, Westbury and Warminster, facilitated by road including the A36/A350 corridor and rail links via Westbury.
- 2.5 Commuting and a workforce to meet the needs of business were highlighted as significant issues during consultation. In light of the fact that the census remains the only true means of assessing flows between work and residence the Council has had to rely on 2001 census data, supplemented by commentary in the 2009 West of England Strategic Housing Market Assessment as well as survey data gathered from the latest 2012 Mendip Housing Needs Assessment. The figures below, whilst dated, give an idea of the scale of outflows to each place which are not considered to have changed significantly since the data was recorded.
- 2.6 The level of net out commuting is a particular issue for Frome with around 2,500 commuters travelling to Bath and the west Wiltshire towns whilst reverse flows are substantially lower as indicated in Table 1a below. As a result the town has the lowest ratio of jobs to economically active population of any of the main centres.

	Mendip	Frome	G bury/Street	Shepton	Wells
West Wiltshire	1350	1245	42	29	35
B&NES	2104	1660	107	258	80
Bristol	1185	325	131	279	450
N Somerset	282	59	48	68	106
S Gloucestershire	399	189	68	57	87
Somerset & Other South West	-62	527	-350	-126	-112
Other Areas	-95	375	-492	144	-122
TOTAL	5163	4380	-448	709	524

TABLE 1a : Net Commuting Flows to / from adjacent areas (2001 Census/2009 West of England SHMAA)

- 2.7 In the other towns, actual and net commuting flows are not as significant particularly when the local Mendip labour force is factored in as shown in Table 1b. The exceptions to this are Glastonbury/Street and Wells. At Street, specifically, there was a substantial inflow (signified by the negative figures in the table above) of workers from other areas, notably other parts of Somerset. At Wells, the net outflow of 524 employees to areas outside Mendip masks a far more dynamic flow of labour which sees around 2500 workers commute out to Bristol/Bath and other destinations in Somerset with around 1900 travelling in – half from Bristol/Bath and half from other locations in Somerset. Local labour flows within the district showed that Wells drew in almost 1000 employees from other towns.

	Work in....				
		Frome	Glastonbury / Street	Shepton	Wells
Live in...	Frome	10122	207	758	203
	G'bury / Street	156	8100	559	862
	Shepton	451	318	4582	833
	Wells	171	614	763	5342
	NET FLOW	391 (out)	437 (out)	479 (in)	963 (in)

TABLE 1b : Commuting Flows within Mendip (2001 Census/2009 West of England SHMAA)

- 2.8 In terms of travel for goods and services, the [2010 Mendip Town Centres study](#) indicates that Mendip performs relatively well with 88% of its residents convenience shopping needs (food, everyday purchases) met within the district. 55% of comparison goods (e.g. clothes, shoes, electrical goods, furniture, DIY, garden, etc.) are also bought within Mendip with 14% of the remainder obtained from online sources. In common with work patterns, Bristol, Bath, Yeovil and Taunton attract trade away from the district although this is accepted to be as a result of the wider range and choice available in these larger centres.

- 2.9 In terms of future needs, the 2010 study indicated that there would be plenty of spending capacity to support town centre regeneration in all of the towns within the non-food sector. However, a significant change in the outlook for retail and the extended role that online retailing will play in the future means that the emphasis must be upon schemes which complement the existing offer and extend consumer choice – in essence making town centres attractive, convenient and well designed shopping and leisure destinations.
- 2.10 In terms of food store provision, capacity to 2021 – a reliable future horizon – is limited on account of existing operators and consents recently granted in Glastonbury and Wells. Any future stores will be predicated on competition rather than absolute need for them. Scope for better food stores in town centre locations which attract shoppers to purchase food and goods from other shops exist, however a fine balance is needed to ensure the wider vitality and functioning of those centres is maintained, and regeneration of sites in Frome will need to be especially cautious in this respect.

Environment

- 2.11 Mendip's natural and man-made environments are highly diverse and this is a distinctive feature of the district. The complex geology, topography, hydrology and geography of the area have resulted in habitats and landscapes of distinctive character and high visual quality. There is a wealth of internationally, nationally and locally designated sites of wildlife value as well as important designated geological sites.

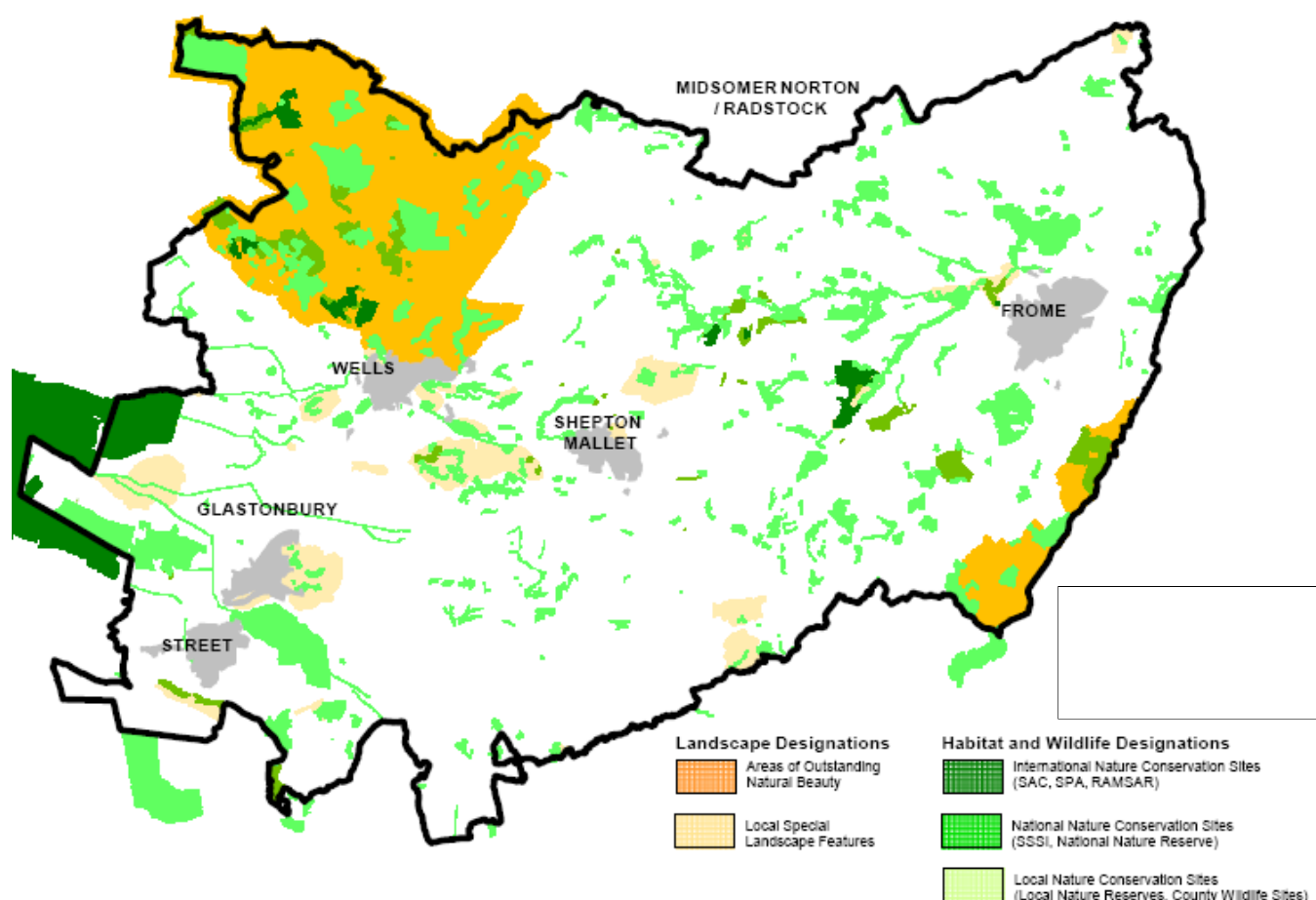


FIGURE 2: The Extent of Designated Landscapes and Wildlife Sites across Mendip District

- 2.12 The Mendip Hills give the district its name and part of the hills form the Mendip Hills AONB. This high landscape quality forms part of the setting for the City of Wells and contributes to the strong sense of place. Three of the district's EU Special Areas of Conservation (SAC) are associated with the Mendip Hills and their extensive cave systems which provide important habitats for bat species. Furthermore, the area around Priddy in the north west of the district has one of the highest concentrations of Scheduled Ancient Monuments. The Mendip Hills are also one of the UK's principal sources of high quality hard Carboniferous Limestone rock and the district contains seven

active quarries. Most of these lie between Shepton Mallet and Frome, producing around 12 million tonnes per year, and indirectly employ 1,500 people across varied sectors.

- 2.13 Since the late 1990s, a new process called Hydraulic Fracturing, sometimes shortened to “Fracking” has emerged which is capable of allowing the recovery of pockets of hydrocarbons from rock strata. The process, very simply, involves injecting fluid at high pressure into rock formations to propagate cracks and fractures which in turn releases gas (of varying forms including natural gas and coal seam gas) which can then be extracted. In recent years, assessments in the UK have revealed that there may be potential in the Mendip Hills for the extraction of gas using this method. The government is granting exploration licences, but commercial exploitation would be planned and managed through Somerset County Council's Minerals Plan. The District Council expects that a precautionary principle is applied by bodies considering the use of this technique given the importance of the area's geology on water supply, landscapes and biodiversity. Until the impacts, localised and area wide, including knock on effects on tourism, are understood the Council will not support this form of development.
- 2.14 In contrast to the Mendip Hills are the Somerset Levels and Moors - a low lying plain modified by man over centuries to create grazing land drained by interlocking ditches, known as rhynes. A significant proportion of the Levels and Moors is designated as an EU Special Protection Area (SPA), primarily on account of its birdlife interest. The area is also internationally recognised for discoveries of prehistoric remains that lie preserved in the peat.
- 2.15 The Cranborne Chase and West Wiltshire Downs AONB fringes the eastern side of the district offering panoramic views across the undulating countryside which formerly made up the ancient Selwood Forest.
- 2.16 The geology, topography and geography of the district have had a direct bearing on the pattern of settlement and communication. The resulting diversity has contributed to the tremendous variation of settlement layout and building styles. These generate a varied sense of place and true local distinctiveness ranging from the Arts and Crafts style worker's housing built from Blue Lias in Street, to the distinctive honey coloured historic buildings of Frome. As a result, and recognising the extensive heritage, there are 27 conservation areas and nearly 3,000 listed buildings in Mendip. These features are important culturally and economically.
- 2.17 The Levels and Moors form a substantial area at high risk of fluvial flooding and this affects Glastonbury and its surrounding villages. Flash flooding, caused by surface run-off is also a problem in some areas, especially Shepton Mallet. In the future, acknowledging climate change effects, flood risk areas will be more prone to incident and pressure on drainage systems in areas where flood risk is less prevalent may still result in localised inundation.

People

- 2.18 In terms of the 2006 population, observable existing variations from national averages were that there was under-representation of 16-30 year olds primarily based on the movement of school leavers from the area for higher education, employment or career progression. Conversely, pre-retirement age groups (50-60) were over-represented as these groups migrate into the area from urban districts.

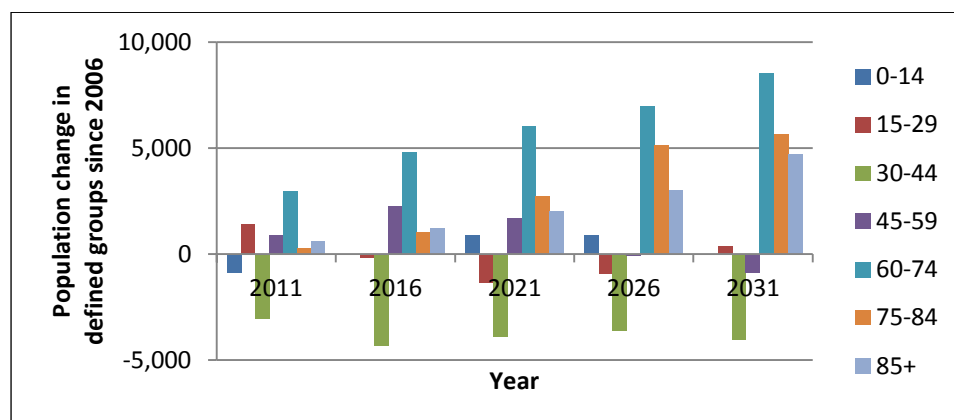


FIGURE 3: Projected Change in the Structure of Mendip's Population 2006-2031 (Justin Gardner Consulting, 2013)

- 2.19 Figure 3 reveals the trends likely to occur over the next 20 years. It indicates that the decline in younger age groups will continue. More dramatic however, is the growth in age groups aged over 60 which by 2029 will have increased its share of the district population from 27% in 2011 to 36% with the number of people aged 90 or more trebling to over 3,000.
- 2.20 A clear implication of the latter trend is that the number of households will grow and, furthermore, the average household size is set to fall as retired couples and widow(ers) households make up a larger share of all households as illustrated in the table below.

	Frome	G bury	Street	Shepton Mallet	Wells	Rural Area	Total
2011 Population	26,223	8,943	11,820	10,374	10,556	41,489	109,406
2011 Households	11,205	4,040	4,771	4,378	4,917	16,900	46,212
2011 Economically Active	14,088	4,616	5,730	5,926	4,981	21,551	56,893
2029 Projected Population	30,365	9,819	12,938	12,276	10,542	44,474	120,414
2029 Projected Households	13,582	4,644	5,716	5,496	5,095	18,988	53,520
2029 Economically Active	15,768	4,794	6,283	6,633	4,873	21,791	60,141

TABLE 2: SNPP updated – based on population projection (Mendip Housing Requirements Study 2013)

- 2.21 As implied from the 2011 average household sizes, to some degree this trend is already advanced in Wells which has a markedly older age structure than that of the rest of the district, save for some rural communities. In response to these trend based projections, there is a clear argument that pure application of household growth will only perpetuate trends, in turn justifying levels of new housing provision that improves the inherent balance of economically active people and jobs.
- 2.22 Indicators of health are generally good in comparison to the averages for England. Mendip residents have life expectancies in line with the national average of 78.1 years (England - 77.3) for men and 82.4 (England – 81.5) years for women. Although the district is a prosperous area there are pockets of deprivation as recorded in the Indices of Deprivation. The main areas are Street North, Shepton East, Frome Welshmill, Glastonbury St John's and Glastonbury St Benedict's.
- Housing**
- 2.23 The number of dwellings in the district in 2006 was 46,933 and at that time around 1,250 homes, 2.5% of the total, were vacant. In 2012, that figure had risen to 1,441, although under a more meaningful measure – those vacant for longer than six months – the figure stands at 445.
- 2.24 Owner occupation represents the largest share of housing stock, standing at 73% in 2011. 13% are in social rented tenure, with the remaining 14% privately rented. Compared with English averages social rented and private rented properties are marginally underrepresented although the proportions are consistent with South West and Somerset averages. Some commentators have observed that a larger private rented sector has benefits for workforce mobility.
- 2.25 Affordability of housing is the major issue in Mendip as it is across much of southern England. Between 2001 and 2006 the district experienced some of the largest house price rises of any of the local authorities in the West of England area. The average price of a semi-detached house rose by 63%. By the end of this period the proportion of young households able to buy or rent in the market fell to 42%. Whilst affordability of housing has marginally improved as a result of house price falls observed during the 2008-2012 period, all expectations point towards this being a blip as the national housing market continues to be dogged by inconsistent delivery and unrealistic land value

expectations. The impact will be most acute on young people and the population change trends shown in figure 3 above will be partly driven by housing affordability.

- 2.26 The table below summarises the scale of housing need in Mendip for the period to 2016 based on information set out in the latest 2011 Mendip Housing Needs Assessment.

Net annual affordable housing need	Frome	Glastonbury/ Street	Shepton Mallet	Wells	Rural	Mendip District
	145	186	65	67	281	743

TABLE 3: Projected net annual affordable housing need in Mendip's sub housing market areas 2011-16 (Fig. 7.19 MDC/JGC Housing Needs Assessment, 2011)

- 2.27 The district total of 743 new affordable homes per year is an unrealistic target for the Council to seek to deliver. Public subsidy for affordable homes is, in the current period of austerity, very scarce. Furthermore, the development industry highlights, quite fairly - up to a point – that development viability cannot support ever escalating levels of affordable housing obligations on the back of market housing. This is recognised nationally and over recent years government has sought to grapple with the issues, making announcements about “affordable rented” tenures, adjusting the benefits regime by bringing in Universal Credit and tackling worklessness. The extent to which these measures will address ever rising demands for affordable homes will become apparent during the lifetime of this Local Plan.
- 2.28 In considering what the District Council can do to address this matter, the clear starting point is that the delivery of affordable homes must be maximised as far as this is possible to achieve. Development Viability work undertaken to inform this plan provides one means to ensure this can be achieved and, as a headline figure, most development sites should be able to support a 30% requirement (40% at Wells and some rural villages) for affordable homes although in each case, specific circumstances will need to be explored where developers argue this level cannot be achieved.
- 2.29 In respect of housing delivery, Mendip District was successful over the preceding plan period in making provision for the development industry to build all of the planned housing. The previous Mendip District Local Plan, guided by the Somerset County Structure Plan (1991-2011) made provision for “about 8,950” for that 20 year period. The table below summarises supply towards the targets set out in that plan.

	Somerset Structure Plan Target Provision (1991 2011)	Homes Completed (1991 2011)	% of Target Met	Brownfield Completions (2000 2011)
Frome	2,590	2,357	91%	1,257
Glastonbury	1,000	1,061	106%	450
Shepton Mallet	1,120	1,338	119%	334
Street	1,135	1,069	94%	394
Wells	1,100	1,001	91%	406
All Towns	6,980	6,826	98%	2,841
Rural Areas	1,970	2,553	129%	796
Total	8,950	9,379	104%	3,637

TABLE 4: Housing Targets and Completions in Mendip 1991-2011 (Mendip DC Housing Monitoring)

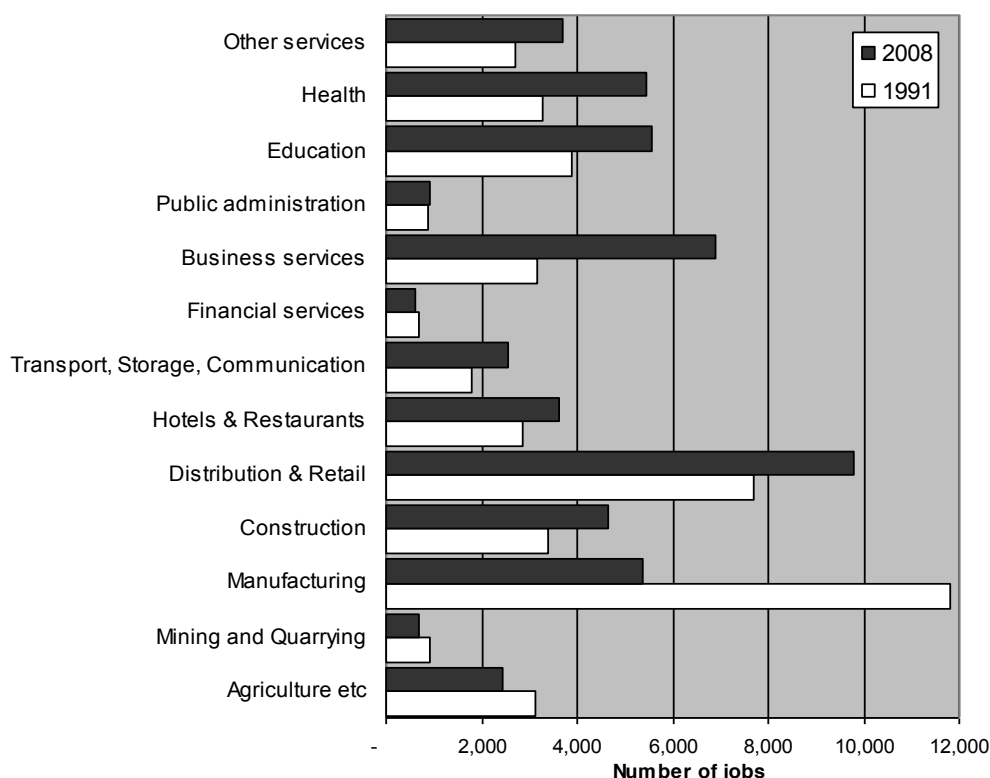
- 2.30 Overall 104% of the target provision has been built although there is some variation between where it was planned and built. This is largely down to the unpredictable supply of brownfield land arising particularly from the restructuring in the local economy in the towns and, in rural areas, infilling and redevelopment promoted during the housing boom. The later than planned release of a major greenfield area at Shepton Mallet coinciding with some modest speculative brownfield development since 2000 led to a modest overprovision of 180 homes, counteracting the under delivery at Frome and Street. In both of the latter however, delays in major sites (Garsdale/Saxonvale and Houndwood respectively) has been the cause.
- 2.31 Since 2006, the District has been successful in securing 2,131 of the total 3,201 new homes (67%) on brownfield sites to 2013. Land supply data considered in section 4 of this strategy suggests that brownfield sites will continue to play a part in delivering a substantial number of new homes in the

period to 2029. However, the supply of such sites is diminishing and so there will be a need for new development to take place on new greenfield sites.

- 2.32 As a result of Mendip's geographic position and the large number of festivals that take place within its boundaries, the district is an area of considerable importance for the travelling community. Based upon the Gypsy and Traveller Accommodation Assessment (updated 2013), there is a need for 90 additional residential pitches to 2020 and 51 from 2021-2029. In addition, at least 80 transit pitches may be required in the plan period.

Economy

- 2.33 The economy of Mendip is made up predominantly of micro and small companies and is now largely service based having seen many of its traditional industries decline or move away from the area over the last 20 to 30 years. The diagram below shows the change that has taken place and that the greatest number of jobs are now in distribution, retailing, construction, health, education and business services (such as property management, information technology and professional services). Traditional manufacturing industry has markedly declined which has required some re-skilling of the workforce. Nevertheless, unemployment is low with a rate below the regional and national averages.



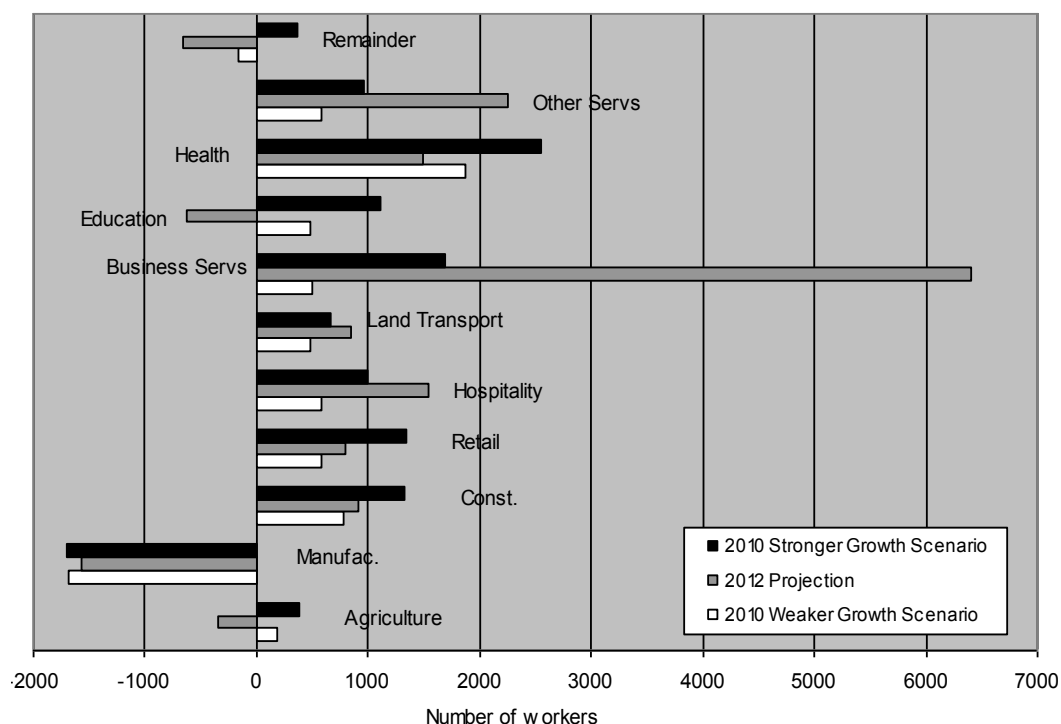
- 2.34 Another clear observation is that the local economy is a lower skilled, lower paid one, although it should be noted that this is common to economies across the South West as shown in the table below. Mendip wages are consistent with Somerset averages, about 5% lower than SW averages and 15-20% below the UK average. Whilst regional variations are to be expected, the most significant implication for Mendip is that it nestles up against the West of England where higher wages can be secured. The main effects of this are borne out in relatively higher housing prices and significant commuting patterns.

% of UK Average	2000	2008	2012	2020	2030
Mendip	85	80	81	80	79
South Somerset	88	87	83	81	79
Sedgemoor	79	77	77	75	72
Somerset	86	84	82	81	79
South West	89	90	87	86	85
United Kingdom	100	100	100	100	100

TABLE 4a: Comparative Wage Levels (Heart of the West of England LEP/Oxford Economics, 2012)

- 2.35 Despite the prolonged downturn and recession precipitated by the global financial crisis of 2008-09, the longer term prospects for the local economy are good with growth predicted in many sectors. Unsurprisingly, employment in the Business Services sector is expected to grow more than any other with technical and scientific, information, communication and support services being the main drivers. This sector offers significant opportunity within Mendip as employees are less dependent on large scale centralised places of work. Such activities can be remotely based and as a result new business activity has the potential to bring higher value jobs which may reduce some of the commuting trends to places outside the district which have developed since the 1990s. In turn this may enable the local workforce to compete better in the local housing market. Providing improvements in broadband speeds will be crucial in facilitating this.

FIGURE 5:
Projected Job Growth
in Mendip to 2030 by
Economic Sector
(Oxford Economics/
Mendip DC, 2012)



- 2.36 Retailing has emerged as a strong component of the local economy which is linked to health and competitiveness of the market towns. By 2030 retailing will be the second largest employment sector. Over the last decade there has been a change to the retailing landscape with large format retailing – particularly foodstores – changing the function of the traditional high street towards a specialist destination with a greater social leisure function. The Council will continue to encourage town centre development that supports the high street.
- 2.37 The district's towns provide the best access to employment, services and shops. Glastonbury town centre satisfies the basic shopping needs of local people whereas the other centres offer a broader range and choice of goods. Street has a wider sub-regional offer due to the Clarks Village outlet centre. Nevertheless opportunities exist to improve shopping, particularly in Wells and Frome.
- 2.38 The close proximity of Glastonbury and Street means that together they provide enhanced access to services and together provide the second greatest concentration of jobs in the district. Shepton Mallet Town Centre remains the weakest of the district centres and new efforts to encourage regeneration of the town centre are proposed through a Neighbourhood Plan being advanced by the Town Council which intends to encourage key landowners to work more closely to reshape the offer of the town.
- 2.39 The other main growth sectors include Construction, Health and Other Services with the latter including a range of arts, entertainment and recreational activities. Hospitality (made up of hotels, restaurants) contributes to the wider tourism economy. Visitors to the district spend an estimated £161 million a year. 2010 data indicates that 3,570 jobs are directly related to tourism enterprises, however this understates the contribution made by pubs, restaurants and other visitor orientated businesses that also serve the local population. The district has a number of attractions of regional significance, including Glastonbury Tor and Abbey, Wookey Hole Caves and Wells Cathedral, and the high quality natural and built environments already act as a major draw to the area. One of the

biggest challenges for tourism in the district is to increase the quality on offer and to translate a large number of day visits to overnight stays and longer breaks.

- 2.40 The annual Glastonbury Festival at Pilton, near Shepton Mallet remains the largest regular music festival in the country attracting over 100,000 people. It is estimated to be worth £73m to the local economy. Nearby, at the Bath and West Showground, agricultural shows, exhibitions and other events draw even larger numbers throughout the year offering potential to tap into. The Royal Bath and West Society have set out a clear regeneration plan to modernise the site and accommodate new business growth, offering improved conference space and exhibition buildings, with the aim to stimulate the site as a showcase of rural activities including food producers, outdoor activities and renewable energy alongside their core agricultural show role.

Accessibility & Transport

- 2.41 Access to most services can be achieved in each of the five Mendip towns although the increasing scale of Frome as a town means that there is greater need to provide more effective intra urban public services as well as further extending foot and cycle links with the River Frome Corridor being seen as an opportunity in this respect. Delivering a wider network of walking and cycling routes is a goal in each of the towns based on community consultation. Across the district there are examples of community groups, supported by Sustrans, who are working towards delivery of multi-user paths utilising, where possible, former railway corridors.
- 2.42 Across rural areas the availability of services in villages is varied. Larger communities like Evercreech, Beckington and Chilcompton have a good range of services allowing people to meet a wide range of daily needs. In others, facilities are limited to the basics, namely a shop, primary school, pub and bus service whilst in the scattered remaining villages and hamlets services are less viable and common. Mendip's villages, like so many across the country, have experienced a decline in the number of facilities and services, such as village shops, pubs and Post Offices. However, it is fair to observe that in reaction to the centralised, homogenised offer of the main supermarkets there are an increasing number of farm shops and similar enterprises which are creating new markets around local and specialist produce.
- 2.43 Transport is critical for Mendip's residents, employers and providers of services. Frome is the only Mendip town to have a railway station and this provides good linkages to Bristol, Bath and the west Wiltshire towns along with services to Yeovil, Weymouth and London Paddington. There are frequent bus services between the towns and Wells has good onward connections to a variety of larger centres including Bristol, Bath and Taunton. Connections from Shepton Mallet to larger centres are less straightforward requiring journeys via Wells. Evening services are limited.
- 2.44 Rural services are varied. Where villages lie on or close to routes the bus can provide a reasonable alternative to the car. However, away from these villages services are less frequent and not suited to serving travel to work needs. The map below is a representation of accessibility by public transport to work in a nearby town before 10am on a weekday. Shaded areas illustrate zones where, with a short walk to a stop, a bus can get you to a town (inside or outside Mendip) whilst the white areas are those where standard public transport would not be feasible. Dial-a-ride services also cover the district but capacity is limited and oversubscribed. Service cuts since 2010 have maintained services to the villages where development is planned, however services and frequency to smaller communities is noted to have declined.

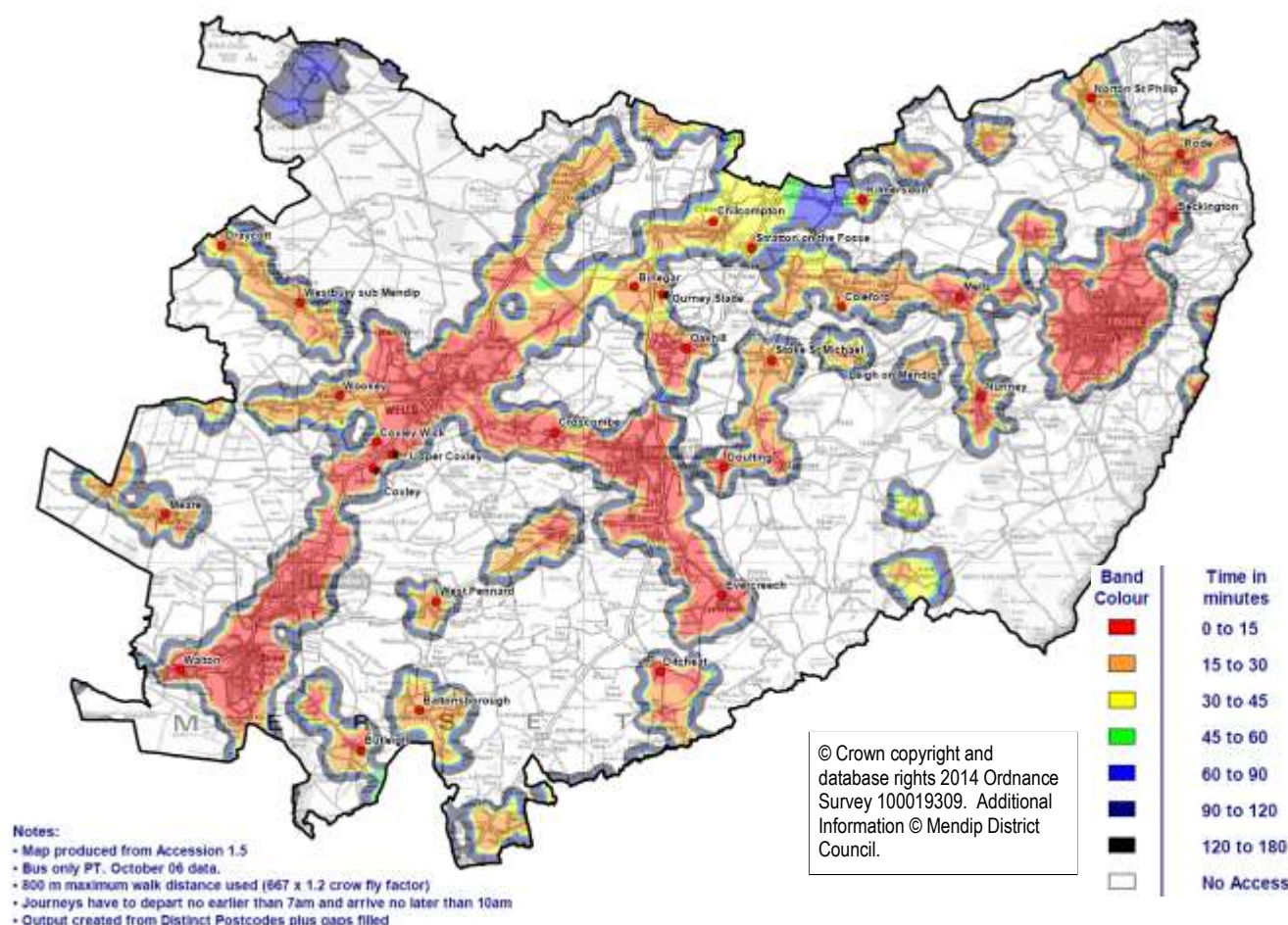


FIGURE 6: Accessibility by Public Transport to a Town before 10am on a weekday

- 2.45 Rates of car ownership are relatively high but, because of the multi-centric nature of the district, patterns of rural travel do not generate substantial congestion flow along specific road corridors. Mendip is not however, immune from congestion. Pinch points on the road network exist at Glastonbury using the A361, whilst at peak times travel within Frome can be delayed. Local views indicated that in Frome, travel outwards to Bath and west Wiltshire combined with a large amount of school traffic (on account of the distribution of schools) is the cause. Whilst observation bears this out, there is evidence that suggests that a high proportion of pupils in Frome walk to school.
- 2.46 In terms of priorities for highway investment, the eastern approach to Glastonbury via Chilwell Street and the Walton Bypass, west of Street remain important schemes and, at Frome, a western relief road to divert heavy goods vehicles approaching from the A362 which pass through the town remains a long held aspiration.
- 2.47 Parking provision has remained a sensitive issue with government policy in the last decade aimed at reducing parking provision to dissuade car use and stimulate the use of public transport, walking and cycling. Under provision associated with new residential development has stretched on-street parking in some towns, notably Frome and Glastonbury, whilst in Wells parking to serve the town centre remains a pressure point which an allocation in the last Local Plan has not delivered. Many views from consultation also highlighted parking charges as a barrier that town centre shops had to endure which supermarkets and retail parks did not.
- 2.48 Broadband coverage is an important means for people to work from home and access services from more remote locations as well as being a key form of infrastructure to stimulate the local economy. Away from the towns, coverage is currently poor and business interests highlight that without this key infrastructure, the ability of people to establish small businesses will be stifled. In 2011, a bid for specific funding by councils in Somerset and Devon to secure accelerated delivery of “unlimited broadband” delivering speeds of up to 100MB/sec was successful and the first stages of that rollout will begin in 2013.

Culture and Leisure

- 2.49 The district's main centres have varied social, cultural and leisure facilities. Frome has a significant cultural offer with two theatres, a cinema, the Cheese and Grain - which offers a venue for live music - as well as a museum and a range of art establishments. Wells has a cinema and a range of local groups and societies, actively supported by sections of the community whilst at Street, Strode Theatre offers a performance venue associated with the college. Shepton Mallet is arguably less well provided for in terms of cultural venues with attempts to bring the Amulet Theatre back into use being dogged by financial constraints.
- 2.50 Social leisure, in terms of pubs, bars, restaurants and other venues to provide people of all ages with places to meet, eat and revel is varied across the district. Across rural areas the village hall and local pubs remain at the heart of rural communities although the availability of cheap supermarket alcohol continues to erode viability. Within the towns the traditional pub still has a place however the range of activities sought has broadened to bars, restaurants and clubs which are common place in centres like Bath, Yeovil and Taunton. The town centres study suggests that there is scope for operators to find niches in Mendip although opportunities will depend upon trading conditions and the right site. On the face of it Street (with its Quaker roots that limited commercial leisure development) and Frome (with its proportionately greater population) appear to have the greatest potential to attract this type of investment as both are relatively underprovided for.
- 2.51 Open space and provision for sport is reasonable across the towns. Deficiencies exist in particular types of spaces as detailed in the Council's Play Strategy and Open Space Assessment although planned provision in line with future development can address these needs. The towns and villages have various sports clubs, including bowls, netball, cycling, golf, football, rugby and cricket, although in some cases, notably Street and Shepton Football Clubs and Wells Rugby Club, investment in facilities is needed to maintain support and encourage participation.
- 2.52 Physical sports infrastructure like sports halls, swimming pools and the like are under financial pressure. Local authority provision in Mendip, through managed contracts, remains the subject of review. Pressures exist and will arise for investment to refurbish or replace facilities and costs, particularly energy costs, for swimming facilities continue to rise. The conclusion of the review will make recommendations about how future provision should be best made across Mendip and the planning framework will facilitate that during the Local Plan Part II: Site Allocations process if required.
- 2.53 In terms of cultural heritage the district is blessed. Wells, with its ecclesiastical heart and fine townscapes, and Glastonbury, with the iconic Tor and Abbey steeped in history and legend, stand out but there is so much more. Frome, Shepton and Street also have important and impressive heritage with potential to further exploit in a sensitive manner. And, across rural Mendip, the caves at Wookey Hole, the Somerset Levels, the East Somerset Railway and the Mendip Hills exist within the varied landscapes that in themselves people like to visit, enjoy and walk.

Summary: Key local issues forming the context for the Local Plan.**Environment:**

- Flooding & flood risk:
 - Significant parts of the district have a high risk of flooding which are predicted to worsen under the effects of climate change – particularly in response to more frequent heavy rainfall events.
 - Surface water drainage in all areas is and will be put under increasing pressure requiring more natural (as opposed to engineered) solutions to be more common.
- Renewable energy:
 - Energy costs are making alternative technologies more viable.
 - Mendip has potential and grid connectivity for certain types of technologies.
- Biodiversity and Landscapes:
 - A wealth of biodiversity and habitats within the district's diverse landscapes is designated nationally and internationally warranting clear measures to safeguard them and encourage their sustained management.
- Sustainable construction:
 - Buildings completed in the next 20 years may stand until 2126 – they must be adaptable, efficient and well built to meet the challenges of a low carbon future and the potential effects of climate change: new development needs to be built using more sustainable construction methods and higher standards adhered to, whilst opportunities to retrofit energy efficiency measures to existing buildings needs to be encouraged.
- Built environment:
 - Mendip has distinctive places defined by the variety of their setting, materials, history and by the way that people have and continue to live and work in them. Heritage should be preserved and new development should be promoted which adds to the richness of local diversity and creates a sense of place.
- Open space:
 - Protect open spaces, improve access to open space and provide new space to address existing deficiencies (both quality and quantity) and meet the needs of growing communities.

People:

- Ageing population:
 - people are living for longer generating more need for supported accommodation.
 - Mendip remains an attractive area to move into for elderly groups and as a result becomes more expensive for younger people in turn affecting the ability of businesses to recruit.
- Falling household size:
 - Social trends (including the ageing population) are resulting in average household sizes to fall. In Mendip it is expected to fall from 2.35 in 2006 to 2.25 persons by 2029 generating the need for new homes without even adding to the population.
- Education and training:
 - Ongoing need to renew school buildings and extend/relocated provision, particularly at Frome and Street.
 - Provision of new schools to meet growing populations.
 - Improve and extend local vocational training opportunities.

Housing:

- House prices and affordability:
 - Mendip saw a leap of over 60% in average house prices in the early 2000s – more than any in the West of England.
 - In 2006, a Mendip average of 61% of newly forming households could afford to buy or privately rent in the district – even within the cheapest sector of the market.
 - In some parts of the district this dips below 50% in the period to 2026.
 - Typical ratios of average house prices to average incomes are over 8.
 - Most acute needs in Wells and rural Mendip although need in all areas warrants maximised affordable housing delivery.

- In-migration pressures:
 - Chronic undersupply of housing in major centres surrounding the district.
 - Mendip is an attractive place for wealthier urban migrants to downsize/retire.
 - Impact upon families/communities social identities and ways of life.
 - Affordable homes for local people first.
- Accommodation for Gypsies and Travellers:
 - Identified need for 141 residential pitches and 80 transit pitches to 2029.

Economy:

- Restructuring of the local economy:
 - Need to diversify the economy following continued decline in manufacturing.
 - Provide higher skilled employment that improves local earnings and enables local people to compete for housing.
 - Overdependence on certain sectors limiting resilience in uncertain times.
 - High levels of entrepreneurial activity.
- Commuting patterns:
 - Providing appropriate jobs at Frome to recapture a workforce travelling outside Mendip for employment.
- Loss of employment land to other uses:
 - 30 hectares of employment land lost to other uses 1991-2007.
 - More effort needed to ensure that jobs are provided as part of redevelopment sites to limit growth in new travel demands to employment sites on town peripheries.
- Provision of new employment land and premises to meet business needs:
 - Cautious estimates indicate need for around 80,000sq m of new employment space requiring up to 12ha of new land.
 - Promoting flexible, adaptable and sustainable employment space more aligned to light industrial, service and commercial uses, particularly around town centres.
 - Small / flexibly financed incubator spaces to support business start-up.
- Encourage and support the rural economy:
 - Farm diversification.
 - Home working and web based small business start-ups.
 - Limited availability of rural business premises.
- Maximising tourist potential in a manner sensitive to the area's natural, physical and historical assets.
- Vitality and Viability of town centres:
 - Complimentary retail development in Frome and Wells to draw trade back from major centres but in a manner that does not erode the strong and characteristic independent sectors.
 - Ongoing need for regeneration of Shepton Mallet high street.
 - Underdeveloped 'evening' economies in Frome and Street.
 - Modern accessible space in town centre locations for commercial needs.

Accessibility & Transport:

- Loss of key facilities in villages:
 - Increase in unsustainable travel as villagers travel to other places to access services and facilities.
 - Affordability, falling household size and ageing population are combining to erode future school rolls in some villages with some risks of closure.
- Public Transport:
 - High frequency/journey to work services along certain corridors serving towns and some villages but most rural services considered ineffective and unresponsive to commuter or leisure needs.
- Parking:
 - On street parking pressure has increased
 - Town centre parking considered scarce, although pressure most acute in Wells
- Telecommunications
 - Poor broadband limits many types of business that could exist in a rural setting.
 - Reason for optimism with Somerset wide scheme delivering 'superfast' services by 2015.

Culture and Leisure

- Shepton Mallet needs support to develop a clearer cultural identity as is present in the other towns.
- Frome and Street in particular have the potential to offer local people a better social experience which town centre development (in different ways) can help to accommodate.
- Open space deficiencies, both in terms of area and quality of useable spaces, can be addressed through new provision and investment.
- Public and private investment in sports facilities needs to be coordinated through the planning process to enable new or improved facilities to be delivered

3. A VISION FOR MENDIP

- 3.1 This section sets out the Spatial Vision for Mendip, which along with the Strategic Objectives that follow it, aims to give a clear statement about how participants in the preparation process would like to see the area in the year 2029.

A Vision of Mendip District In 2029

- 3.2 The following vision provides a guide to users of the planning framework about the expectations we have for our area. It give some clear signals about the types of places we want to encourage support and enhance, the types of development we need and the key local issues we need to tackle. *It is set out to read as if it were written in 2029 by someone reflecting back on what has been achieved* through coordinated effort, private investment and the resultant way in which it may have benefited people.

A Vision of Mendip District in 2029

In 2029, Mendip remains a rural, multi-centred district of great diversity. Although still strongly influenced by larger centres outside the district for jobs, shopping and leisure, Mendip's market towns have continued to improve their services, facilities and amenities, enabling a higher proportion of peoples' needs to be met locally. In more rural parts of the district, access to basic goods and services has been secured with a number of villages offering an increasingly wide range of facilities to their surrounding communities. New development, primarily focused in the towns, has made efficient use of land but has been used to reinforce the distinctive character of each place.

In Frome and Wells, promoting a better balance between homes and jobs has been achieved. In Frome, economic development has been stimulated to improve opportunities for local employment, reducing the outflow of the workforce to Bath or places in the west of Wiltshire. Furthermore, the appeal of its town centre has been dramatically improved by major redevelopment which makes the most of the natural and cultural assets of the town. In Wells, a greater proportion of new housing has been designed to provide for working people, particularly those on lower incomes who are less able to access housing, despite having work in the city. In both of these places, new development has been sensitive to their landscape setting and cultural heritage. In Shepton Mallet, the potential of the town has been unlocked. Its heritage, trained workforce and central geographical position have been harnessed to generate higher incomes, provide community facilities and stimulate new vitality in the town centre. The close proximity of Street and Glastonbury has been exploited through sustainable transport links, enabling local people to gain the best of their complementary offers in terms of housing, employment, shopping and community facilities.

The diversification of the local economy is continuing, with high speed broadband access helping to counteract the limitations of the local transport network. New and improved education and vocational training facilities have improved the skills of the workforce, encouraging new and dynamic businesses on well designed sites in the towns.

These factors have also facilitated a rural renaissance, allowing small office/workshop based businesses and a new generation of local food producers, making use of older farm buildings and other structures, to employ local people in better paid roles. New rural housing has been primarily focused on the villages with the best range of services and facilities. Demand responsive rural transport services and sustainable transport links are also being developed to improve accessibility for rural residents to their nearest town.

The sensitive landscapes and environments of the Mendip Hills and Somerset Levels remain critical assets for wildlife and informal recreation, but alongside cultural attractions like Glastonbury Tor and Wells Cathedral, also attract tourism which is important to the local economy.

Strategic Objectives Of The Mendip Local Plan

- 3.3 The following Strategic Objectives now go on to draw out the key things that need to happen to provide an opportunity for parts of the Vision to become reality. The objectives are grouped under headings which link back to the Mendip Sustainable Community Strategy.
- 3.4 Many other factors will have a bearing on the outcomes, if indeed this Vision is the one that is achieved. However, provided changing circumstances are recognised and flexibility is built in, effective planning can influence the nature of the physical environment in which we live, work and enjoy ourselves and this in turn, little by little, can influence our use of that environment.

TO DIVERSIFY AND STRENGTHEN THE LOCAL ECONOMY

1. Deliver suitable employment land and premises at the towns to enable forecast job growth potential to be realised, with additional provision in Frome to promote a better balance of jobs and economically active people.
2. Deliver a mixture of modern and flexible employment premises with an emphasis on supporting existing local firms, flexible/incubator space to support the establishment and growth of small businesses and office space that reinforces the vibrancy of our town centres.
3. Retain jobs on redundant employment sites through mixed use re-development.
4. Support proposals which improve and extend tourism across the district.

TO EQUIP PEOPLE AND LOCAL BUSINESS WITH SKILLS THEY NEED

5. Deliver new vocational training and skills development facilities at the towns including the expansion of Strode College in Street and expansion in secondary education facilities in Frome on a site which could also fulfil potential for further education opportunities.
6. Deliver new primary/first schools in Frome, Shepton Mallet, Wells and Street.

TO PROMOTE GREATER VITALITY AND VIABILITY IN OUR MARKET TOWNS AND RURAL COMMUNITIES

7. Develop and reinforce the distinctive identities and specialisms of the Mendip towns.
8. Concentrate the majority of jobs, housing, cultural activity and services within the district's towns.
9. Maintain and enhance town centres to make them attractive places to visit at any time of the day, and promote sensitive redevelopments, particularly in Wells and Frome, that make them the first choice shopping destination for the widest range of goods that their catchment areas can support.
10. Ensure that the rural population has better access to basic community facilities such as shops, schools and social venues, as well as housing to meet local needs.
11. Support and enable diversification of the rural economy in suitable and sustainable locations.

TO ENABLE PEOPLE TO MAINTAIN AND IMPROVE THEIR STATE OF HEALTH

12. Deliver additional or replacement healthcare facilities in Frome, Glastonbury and Shepton Mallet.
13. Maintain and extend the networks of open spaces and sports facilities, particularly in the towns, to improve their use as a means to promote more active lifestyles.

TO PROVIDE ADEQUATE LEVELS OF DECENT HOUSING WHICH IS ACCESSIBLE TO ALL

14. Deliver new housing within our towns at levels that maintain or, as in the case of Frome and Wells, improve the balance of jobs and economically active people and rural housing that is clearly related to identified local needs.
15. Maximise the delivery of affordable housing.
16. Deliver a range and mix of house types and sizes to meet the variety of local housing needs in both the open market and affordable housing sectors.
17. Provide for sites to accommodate the needs of Gypsy and Traveller communities.

TO IMPROVE ACCESSIBILITY BY MEANS OTHER THAN THE PRIVATE CAR

18. Ensure that the majority of new developments, particularly major traffic generators, are located to be accessible by a range of transport modes.
19. Create safe and convenient footpath and cycleway networks, ensuring that new development encourages walking, cycling and the use of public transport.

TO MAINTAIN AND ENHANCE THE QUALITY OF THE LOCAL ENVIRONMENT AND CONTRIBUTE TO INTERNATIONAL CLIMATE CHANGE GOALS

20. Create well designed places that are safe and responsive to their surroundings, whether built, natural or cultural, whilst maintaining and enhancing the historic environment.
21. Deliver new development that makes efficient use of land, using sustainable methods of construction and utilising technologies that minimises their environmental running costs.
22. Protect sensitive wildlife habitats and valued landscapes from development and enhance biodiversity and local scenery through an integrated network of green spaces, corridors and protected areas.
23. Recognise and manage development in light of emerging climate change impacts with particular regard to the location of new development away from areas of flood risk and developments that would increase the risk of flooding elsewhere.

3.5 The following sections now go on to set out policies and proposals aimed at delivering the stated vision and objectives through development within the district. The policies are split into three main groupings, namely:

- Section 4: A Spatial Strategy – *the broad locations, amounts and overall planning principles that will be pursued in parts of the district.*
- Section 5: Town Strategies – *five individual visions – along the same lines as that set out at the start of this section – set out a view of how each town is intended to evolve through the delivery of this planning framework. Subsequent policies and delivery frameworks for each town then set out what needs to happen and how this will be achieved.*
- Section 6: Development Management Policies – *these, in parallel with national planning policies, will provide development interests and the communities with a clear set of local directives to achieve the types of development the area needs, the delivery of appropriate supporting infrastructure and safeguards for valued local assets.*

3.6 As set out in Appendix 1, there are a small number of Saved Policies carried forward from the 2002 Local Plan and the 2000 Joint Structure Plan which relate to site specific issues. These will be reviewed and normalised into the plan during the preparation of Part II – Site Allocations.

4.0 SPATIAL STRATEGY AND CORE POLICIES

- 4.1 The determination of what, where and how much development takes place in the Mendip district is set out in this section of the Local Plan and draws upon the vision set out in section 3.

A Spatial Strategy for Mendip

- 4.2 [National Planning Policies](#) set out principles which define an overall framework which local planning authorities should use to define where best to focus growth. It is the role of the plan making process to use these principles to outline what is the most appropriate means to plan for the area and set this out in a Spatial Strategy. In simple terms, a Spatial Strategy broadly defines where most development will be focused and what scale of development is appropriate in identified parts of the area.
- 4.3 Taking these cues from national policies and drawing on what has been agreed in the Vision for Mendip set out previously, the broad principles Mendip will apply are as follows:⁵
- The majority of new development should be focused in the towns where there are a range of employment opportunities, services, community facilities and other infrastructure. Where necessary local infrastructure will need to be supplemented to meet the needs of the community and local economy.
 - Outside of the main towns, appropriate levels of provision for new development should be made in rural areas to meet local needs and to sustain the rural economy. Again the emphasis is upon delivering the majority of this development in the settlements where people can access local employment or where residents and businesses can make use of available services.
 - In smaller communities that have more limited community facilities, small scale development aimed at delivering affordable homes and meeting the specific needs of rural business is considered appropriate.
 - Development in the open countryside should be strictly controlled.
- 4.4 The following subsections now examine each group of settlement types in turn.

The Mendip Towns

- 4.5 Within Mendip District, the towns of **Frome**, **Glastonbury**, **Shepton Mallet**, the city of **Wells** and the village of **Street** all perform traditional market town roles offering employment, services, cultural and community facilities as well as high street shopping to varying degrees. As the principal centres in the district they offer the best opportunities to deliver sustainable new housing and economic development to meet the needs of the growing population. The towns of Radstock and Midsomer Norton in neighbouring Bath and North East Somerset also have close functional relationships with some settlements in the wider rural catchment within the north of the district (see paragraphs 4.7 and 4.21).
- 4.6 In respect of housing growth, the overall objectively assessed needs of Mendip have been updated to reflect projections based on 2011 Census and other data and are set out in a “[Review of Housing Requirements](#)” prepared by Justin Gardner Consulting (JGC) (November 2013). This updates the [Housing Distribution Technical Paper](#) which has considered the relative needs of these five settlements examining expected population growth and prospects for employment growth, labour market dynamics, as well as affordable housing need and the availability of brownfield land. It should be noted that in examining jobs driven housing needs, the JGC update does not seek to update in detail the economic projections for Mendip as set out in the updated Technical Paper published in October 2012. However, for comparison purposes, job growth projections produced by Experian in spring 2013 have been drawn upon which provide forecasts at District level which are unadjusted to take account of local trends and business requirements. In light of these aspects and in response to the vision statements drawn up for each town, the broad level of housing development and employment land requirements have been determined as set out in Core Policies 2 and 3.

⁵ More detailed consideration of these issues is set out in the Technical Paper “Housing Distribution Options for Mendip” (September 2012)

- 4.7 The towns of **Radstock** and **Midsomer Norton** lie on the northern fringe of Mendip district. The main built extent of these towns lie in Bath and North East Somerset; but some built development exists within Mendip and other built and permitted development immediately abuts the administrative boundary. This Local Plan, whilst taking into account development opportunities on land abutting the towns, does not make any specific allocations for development, particularly for housing. The Council will consider making specific allocations as part of the Local Plan Part II Site Allocations to meet the development needs of Mendip which have not been specifically allocated to any particular location in this Part I Local Plan. In the event that such allocations are considered, this will be undertaken in consultation with B&NES and local communities. Any impact on infrastructure in B&NES such as education, transport or community facilities, will be addressed either through s.106 contributions or through CIL arising from new development in Mendip.

Rural Mendip

- 4.8 For rural Mendip, the Council has drawn together a broad range of intelligence⁶ related to all of its villages and many of its hamlets, as well as taking regular soundings from parish councils, to understand their character and roles.
- 4.9 As set out in the Vision for Mendip, the rural communities are diverse with some being able to meet most everyday needs, including some employment needs, whilst at the other end of the spectrum some consist only of a handful of dwellings and effectively operate as dormitory communities where residents are required to travel for almost all their daily needs.
- 4.10 In considering how best to provide for the localised needs in rural areas, the Council has concluded that there are two principal tiers of settlements:
- **Primary Villages** – those villages with at least a primary school, a community venue (either a pub or a village hall), a shop able to meet a range of daily needs and a ‘journey to work’ bus service.⁷ Here new residents can meet many of their daily household needs locally and have a realistic transport alternative to the private car in order to access other services and employment.
 - **Secondary Villages** - those villages with some, but not all, of the basic facilities available in the primary villages but that all lie within transport corridors where ‘journey to work’ bus services operate. On account of their relative accessibility to nearby centres, new development in these villages, albeit of a smaller scale envisaged in the Primary Villages, will enable local needs to be satisfied closer to where that need arises.
- 4.11 In all **other villages and hamlets**, which have few or no community facilities and where residents are typically reliant on the private car to meet all their everyday needs, new development of any scale is unlikely to stimulate the provision of new services. Nevertheless, in exceptional circumstances, as allowed for in national policy and Core Policy 4, these villages may be appropriate places to meet specifically identified local housing needs (as allowed for by Development Policy 12) or dwellings to accommodate rural workers. Economic development appropriate to the scale and infrastructure available locally may also be appropriate. It should also be noted that Neighbourhood Plans provide an opportunity for all communities to plan for their own needs should they be so minded so long as the proposals made broadly conform with the policies of this document.
- 4.12 In the **Open Countryside**, in line with national policy, new development will be strictly controlled. Core Policy 4 (Rural Development) sets out the overall approach which the Council will take in the rural area beyond that which is set out in the Spatial Strategy (Core Policy 1).

⁶ In a document called “Rural Settlement Role and Function Study” (2012)

⁷ A bus service that enables residents to arrive in an employment centre (i.e. one of the 5 Mendip towns or other major centres outside the district) by 9am and then return them home after 5pm.

Core Policy 1: Mendip Spatial Strategy

All new development is expected to contribute positively towards delivering components of the Vision for the district and the associated strategic objectives.

1. To enable the most sustainable pattern of growth for Mendip district:

- a. The majority of development will be directed towards the five principal settlements of Frome, Glastonbury, Shepton Mallet, Street and Wells to reinforce their roles as market towns serving their wider rural catchments. Specific proposals for each place are set out in Core Policies 6-10.

- b. In the rural parts of the district, new development that is tailored to meet local needs will be provided for in:

- i. **Primary Villages** – These villages offer key community facilities (including the best available public transport services) and some employment opportunities making them the best placed to accommodate most new rural development.

Baltonsborough	Crocombe	Norton St Philip
Beckington	Ditchheat	Nunney
Butleigh	Draycott	Rode
Chewton Mendip	Evercreech	Stoke St Michael
Chilcompton	Mells	Westbury sub Mendip
Coleford		

- ii. **Secondary Villages** – These villages offer some services and the best available public transport services making them appropriate for development aimed at meeting more localised housing, business and service needs.

Binegar/Gurney Slade	Kilmersdon	Walton
Coxley	The Lydfords	West Pennard
Doulting	Meare/Westhay	Wookey
Faulkland	Oakhill	Wookey Hole
Holcombe		

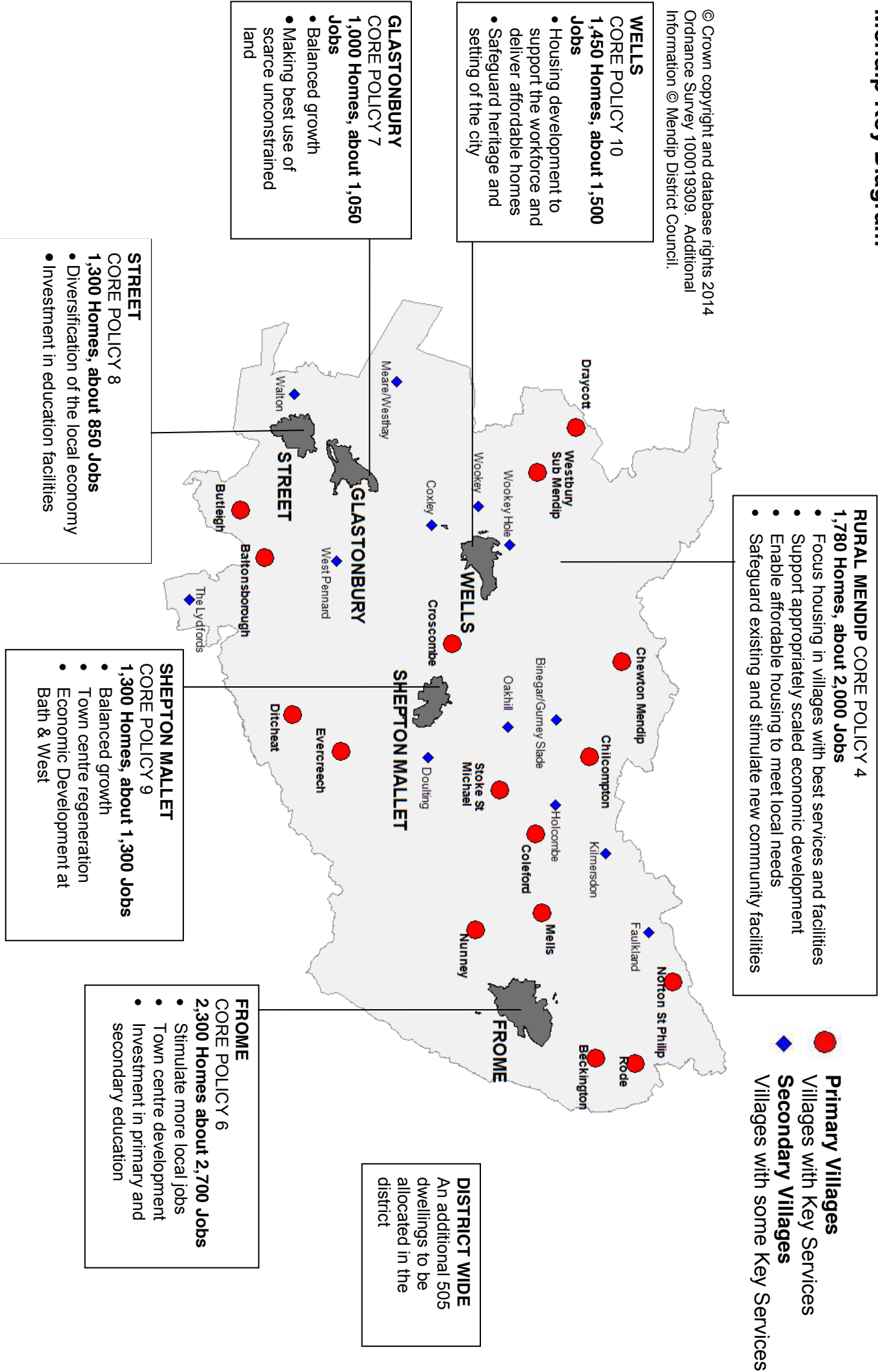
- iii. In other villages and hamlets, development may be permitted in line with provisions set out in Core Policy 4 to meet specifically identified local needs within those communities.

- c. Development in the open countryside will be strictly controlled but may exceptionally be permitted in line with the provisions set out in Core Policy 4: Sustaining Rural Communities.

2. The scale of housing and employment development within the settlement tiers is set out within the tables associated with Core Policies 2 and 3.
3. In identifying land for development the Local Plan's emphasis is on maximising the re-use of appropriate previously developed sites and other land within existing settlement limits as defined on the Policies Map, and then at the most sustainable locations on the edge of the identified settlements. Any proposed development outside the development limits, will be strictly controlled and will only be permitted where it benefits economic activity or extends the range of facilities available to the local communities.
4. Development is required to provide infrastructure in accordance with the infrastructure needs for each town as defined in Core Policies 6-10, the accompanying Infrastructure Delivery Plan or other needs as they arise. Infrastructure to be secured from development within rural communities will be defined as part of the Site Allocations DPD process.

Mendip Key Diagram

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- 4.13 The Council is mindful that there is the potential for the availability of services and facilities within rural communities to change over time which may act to undermine their inherent sustainability. Regular monitoring of services and facilities, particularly the key community facilities, will be reported in the Authority's Monitoring Report. Where communities gain or lose key facilities their status within the settlement classification in Core Policy 1 will be reviewed enabling a more appropriate application of policy.

Application

- 4.14 The Council intends to continue to operate its planning framework by defining development limits for those places identified in the Spatial Strategy. Development limits are clear boundaries which effectively define the principal built form of settlements where most development is to be focused in line with the Spatial Strategy. Within these development limits, as set out in subsequent policies, most forms of development will be acceptable in principle subject to their compliance with other policies in the Mendip Local Plan, relevant parts of the [National Planning Policy Framework](#) or any other material considerations. Where exceptional development is considered in communities unnamed in the policy (under Core Policy 1, section 1) a) ii), any site should be broadly adjacent to the existing built extent of the community concerned and have regard to the surrounding landscape setting, as well as being compliant with national and local planning policies.
- 4.15 Until reviewed in the Local Plan Part II: Site Allocations, the Council will carry forward from the Mendip District Local Plan (2002) the existing development limits for those settlements named in the Spatial Strategy including proposed amendments to reflect strategic site allocations.

Mitigating the effects of Development: Strategic Level Impacts arising from Sustainability Appraisal

- 4.16 In completing the formally prescribed Sustainability Appraisal of the development scenarios a number of approaches were rejected as a result of significant negative impacts. Of those options remaining most had some residual impacts that would need to be addressed through policy making to mitigate against their effects. The table below identifies impacts and mitigation measures to address them which will be relevant for development proposals in the district, or those where a specific localised issue was apparent.
- 4.17 In many of the instances below, the intentions have been incorporated into the Town Strategies (section 5) or into the intentions of Development Management Policies (section 6). However, as a checklist, all proposals should be assessed against this list of strategic impacts to determine their direct effects or in combination effects alongside other proposals.

Issue	Most applicable	To be addressed and monitored through
Sustainable urban drainage on brownfield development sites needed in all areas to limit flood risk and reliance on costly engineered drainage	District wide, esp. Shepton Mallet	Policy DP7 requires new development to maximise opportunities from SUDS. (Relevant indicator for DP7)
Pressure to release employment land for housing will be arrested by requiring mixed use development on former employment sites	District Wide	Policy DP20 tackles this issue. (Relevant indicator for DP20)
Brownfield development will have more limited potential to deliver affordable housing	District Wide	Contribution for affordable housing from all development as part of Policy DP12 (Relevant indicator for DP12)
Provide additional recreational open space alongside development near to the Somerset Levels & Moors SPA to limit disturbance to wintering waterbirds and bird breeding from increased population	Glastonbury, Street	Policies CP7 and CP8 include the need for strategic scale open space to address this issue

Growth in water and energy use to be addressed through delivery of development with efficient fixtures and fittings	District Wide	Policy DP7 requires energy and water efficiency. (Relevant indicator for DP7)
Landscape, biodiversity and heritage impacts must be key considerations in the selection of sites for development	District Wide	Site Allocations DPD process will include Sustainability Appraisal of landscape, biodiversity and heritage impacts to inform site selection.
Better collaborative planning between Street and Glastonbury to deliver shared benefits	Glastonbury, Street	Addressed within CP7: Glastonbury Town Strategy and CP8: Street Parish Strategy. Potential for a Joint Neighbourhood Plan over the medium term.
Localised flood risk must be carefully assessed in rural areas during site selection	Villages	Use of SFRA and EA Flood Map to fully inform Site Allocations DPD Sustainability Appraisal
Information received from the Environment Agency has highlighted that nutrient discharge from sewage works is affecting water quality and ecology. Under the EU Water Framework Directive there will be an obligation to address this problem.	District Wide	Encouragement of Wessex Water – supported by Env. Agency - to invest in improved sewage treatment to serve proposed new development

TABLE 5: Recognised issues arising from the Sustainability Appraisal of the proposed Mendip Spatial Strategy.

Supporting the Provision of Housing

- 4.18 Having established the broad overall spatial strategy, the Local Plan must next define the overall level of housing and employment development. Following the Review of Housing Requirements (2013), and to make provision for around 15 years supply from the likely date of adoption, this Local Plan is making provision for at least 9,635 dwellings in the period 2006-2029 and a development rate of 420 dwellings per annum from 2011-2029.
- 4.19 Housing provision is a central element in planning for the future of the area. In Mendip district, the housing market is complex with pressures arising from commuters to larger centres outside the district, those moving into the area (including a substantial proportion of the retired and pre-retired age groups) and the local population, including much of the workforce. The Review of Housing Requirements has examined these trends and establishes that for the purposes of planning for housing, Mendip represents a self contained Housing Market area albeit with strong links to parts of Bath and North East Somerset in particular.
- 4.20 In the updated [Housing Distribution Technical Paper](#) (July 2012), prepared to inform this Local Plan, the amount of housing appropriate to each town has been determined through an assessment of population, employment growth, housing need, land supply, environmental limitations and in light of other place based factors which will be discussed further in the town strategies. The Review of Housing Requirements (2013) concludes that the proposed housing provision set out in the Pre-Submission Draft Local Plan makes provision for Mendip's objectively assessed needs, although modest additional supply is needed to cater for slightly higher annual needs beyond 2011 and to extend the time horizon of the Plan to 2029. The following paragraphs and tables summarise the essence of the Local Housing Target setting process:
- 4.21 The Review of Housing Requirements (2013) and the rolling forward of the plan period to 2029 will result in an additional requirement for 505 dwellings in the District. This will be addressed in Local Plan Part II: Site Allocations which will include a review of the Future Growth Areas identified in this plan. The Site Allocations document will also be able to take account of issues in emerging Neighbourhood Plans, updated housing delivery, revised housing market areas and housing needs identified through cross boundary working. Allocations from this roll-forward are likely to focus on sustainable locations in accordance with the Plan's overall spatial strategy as set out in Core Policy 1 and may include land in the north/north-east of the District primarily adjacent to the towns of Radstock and Midsomer Norton in accordance with paragraph 4.7 above.
- 4.22 The residual level of housing to provide 9,635 dwellings will be met through the strategic sites identified in this Plan and allocations made through the Local Plan Part II. For the avoidance of doubt, however, and taking account of advice in the NPPF on the need to increase housing delivery and maintain a rolling five year supply, the requirements in Core Policy 2 will be treated as minima to be achieved over the plan period. The Council will explore opportunities to deliver above the policy minimum through the site allocations process in the Local Plan Part II, including in primary and secondary villages, informed by the testing of site options through local consultation and Sustainability Appraisal. Opportunities for such additional provision may arise where the most effective planning of sites needed to meet the requirements of individual settlements would naturally enable somewhat higher levels of development. In this regard, provision on a settlement by settlement basis will not be artificially constrained to exactly match the numerical requirement as set out in Core Policy 2. The need to plan for proportionate levels of growth in Primary and Secondary Villages will, however, remain an essential consideration in accordance with the spatial strategy set out in Core Policy 1. Local communities may also wish to support higher levels of growth, for example through the Part II Site Allocations process, through Neighbourhood Plans or in accordance with Core Policy 4.

Establishing a Local Housing Distribution

- 4.23 The following paragraphs and tables summarise the process of establishing a local housing distribution:

A number of options were developed reflecting different pressures arising from population growth, employment growth, affordable housing need and land supply. Each option was then subjected to

Sustainability Appraisal which sought to identify benefits and drawbacks associated with the levels of development proposed under each. Those raising significant negative impacts were set aside. Following this scoping exercise, each town and the rural area was assigned a broad range based on the numbers set out in the remaining options. Local considerations, including issues arising from the Vision, identified constraints, land supply, were then applied to each set of numbers to determine where in the range the level of provision should be fixed. The table below summarises the issues and sets out the local target established.

	Range	Issues	Conclusion
Frome	1901-2379	Need to tackle commuting flows out of the town High affordable housing need High level of brownfield land Strong employment growth potential	2,300
Glastonbury	683-1190	Employment growth Town is environmentally constrained Brownfield land supply Relationship with Street	1,000
Street	856-1670	More jobs than homes Affordable housing need Economic diversification needed Relationship with Glastonbury	1,300
Shepton Mallet	787-1650	Many more jobs than homes Economic potential – although dependent upon Bath & West Showground regeneration	1,300
Wells	1452-1594	Acute affordable housing need Many jobs, but lower level of economically active people Strong economic potential Risk of harm to important city character	1,450
Rural	927-2545	Meeting rural housing needs Safeguarding the countryside	1,780
		Requirement resulting from updated housing review and rolling forward the plan to 2029 – to be allocated in Local Plan Part II: Site Allocations	505
Mendip District Housing Requirement 2006-2029			9,635

TABLE 6: Summary of the exercise used to determine local housing targets

Housing at the Mendip Towns

- 4.24 Having established appropriate development levels for each town it is necessary to consider the supply of land available to deliver the housing. The table below sets out the supply picture at the 31st March 2013 and draws conclusions about the need to identify land to accommodate housing development. Decisions about housing provision in rural areas will be made in the Local Plan Part II: Site Allocations document in line with Core Policy 1.

		Frome	G'bury	Street	Shepton Mallet	Wells
Housing Requirement (as concluded in Table 6 above)		2,300	1,000	1,300	1,300	1,450
Less homes built 1/4/06-31/3/13		828	426	521	558	206
Less homes with granted planning permission at 31/3/13		200	188	275	36	130
Less yield of housing from sites identified in the SHLAA ⁸	Identified sites within adopted town Development Limits	1,044	205	39	91	496
Residual Requirement (excluding windfall)		228	181	465	615	618

⁸ Strategic Housing Land Availability Assessment (SHLAA) roll-forward to March 2013 – Totals of 'B' sites (acceptable in principle within development limits).

Need for a Strategic Site(s) to be identified in the Local Plan	Yes	No (see below)	Yes	Yes	Yes

TABLE 7: Mendip District Housing Land Supply at 31st March, 2013

- 4.25 The table concludes that in each town, to a greater or lesser degree, expected sources of urban land alone will not be sufficient to satisfy the identified requirements. The Key Diagrams associated with the Town Strategies (associated with Core Policies 6, 8,9 and 10) identify Strategic Sites on new greenfield land which consultation and evidence have indicated most appropriate to consider for development. These are differentiated into two types, namely:
- Development areas which are allocated to meet the needs of the plan period
 - Future Growth Areas on adjacent land which would represent logical extensions for subsequent plan periods, or offer flexibility in the latter part of the plan period if housing supply from other sources does not materialise or if other evidence warrants the further release of land. Any release of additional land will normally be made through future site allocations. However, where housing completions in the relevant town fall more than 20% behind the expected rate of delivery implied by the annual target provision set out in Core Policy 2, the Council will consider the reasons for this and may resolve to bring forward the release of land in advance of the Site Allocations document. Equally, land within Future Growth Areas may be released where this would logically contribute to a better pattern of development in the release of allocated sites.
- 4.26 In order to encourage a longer term and proactive view in planning for new development, the Council will, where necessary, require the production of and formal adoption as Supplementary Planning Documents (SPD) of Development Briefs and Masterplans for the Strategic Sites. These documents will inform the development of sites and, where appropriate consider - over timescales beyond the current plan period - where strategic scale infrastructure and community facilities would be appropriate.
- 4.27 In Glastonbury, there are a number of matters to balance up, namely;
- a) land supply from committed and identified sites in the SHLAA falls marginally short of that required.
 - b) the town is heavily constrained by landscape, environmental and flood risk constraints
 - c) there are competing demands for the use of scarce developable land for employment use
 - d) the close relationship of the town to nearby Street which forms part of the same housing sub-market area and which has less constrained land supply

In light of the uncertainties surrounding these issues, the Council will, through the Local Plan (Part II) - Site Allocations process, allocate modest additional greenfield land to address any shortfall in housing land supply that is identified at that time.

Housing for Rural Communities

- 4.28 In considering the level of housing to plan for it was concluded that the Council should provide only for locally arising population growth encapsulated in a development level of 1,780 homes. This level of housing does not cater for the demands arising from those wanting to move to the area which, based on 2009 household projections, amounted to 4,320 new homes. To provide for this higher level of housing would dramatically alter the character of communities, generate growth in unsustainable travel, as well as putting pressure on limited local infrastructure.
- 4.29 Subsequent 2010 household projections reduced the locally arising growth component to 1,190 new homes and the full household growth (including immigration) to 2,545 homes. The 2012 Housing Distribution Technical Paper considers the issues involved, concluding that to fulfil the 2,545 figure would impose levels of development on villages that would be out of scale, yet to reduce provision to 1,190 using the previously justified locally arising needs figure would mean that legitimate demand from migration would not be satisfied over the plan period. In conclusion, and reflecting the intensive consultation with rural parishes involved in agreement of the initial 1,780 figure, the Council has concluded that this level strikes a balance between satisfying all locally arising needs as well as a significant proportion of the demand expected to arise from in-migration. The updated Housing Requirements Study (2013) also confirms that the proposed rural housing requirement is well in excess of projected natural change.
- 4.30 The acknowledged gap between the proposed 1,780 and the full projected household growth means that there will be a mismatch between rural supply and trend based projections including in-migration. This is in line with the overall spatial strategy of locating most development in the towns where there are a range of jobs, services and facilities. The implications and mitigatory measures proposed are considered in relation to Core Policy 4.
- 4.31 Having established a reasoned level of provision for rural Mendip, consideration is now given to how the planned 1,780 homes would be distributed across the numerous and varied rural settlements within the district. From a national policy angle, the aim is to deliver a sustainable pattern of development which allows new households access to services and some form of transport choice to larger centres but in a manner which allows housing need to be met as locally as possible. At a local level, a lengthy and intensive period of engagement with Parish Councils concluded that two broad principles should be applied in distributing new rural development:
- a. That new development should be located in villages with certain key services, including the best available public transport services.
 - b) That levels of new development in each place should be appropriate to their existing scale and have regard to environmental constraints.
- 4.32 In developing and revising this approach it was concluded that there are 16 villages (termed Primary Villages in Core Policy 1) which had core facilities – namely a primary school, a shop meeting a range of daily needs, a meeting place (whether a public house or a village hall) and a public transport service that allowed people to at least reach a nearby town by 9am and return them to their village after 5pm. These villages would be the first places to consider when distributing planned rural housing in the Local Plan. In response to the second principle set out in the preceding paragraph, the Council proposes village housing requirements based on a proportionate growth equating to 15% of the existing housing stock. These have been adjusted taking account of identified local constraints to tailor development levels in each community to an appropriate scale.
- 4.33 A further group of 13 villages (termed Secondary Villages in Core Policy 1), had the same public transport service but only two of the remaining core facilities. Hence, where the rural development was unable to be accommodated in the Primary Villages (predominantly on account of the excessive scale of new homes proposed when compared to the existing stock of dwellings) these Secondary Villages were considered well placed to accommodate a more modest amount of new homes, again applying the 15% guideline as a proportionate level of growth. The inclusion of these villages has also allowed local housing needs to be met more locally.
- 4.34 The tables below summarise the conclusions of the exercise including the contribution that development from 2006 – 2013 has made towards the identified requirements for each village.

Full details of the methodology used are set out in section 6 of the 2012 Housing Distribution Technical Paper.

Primary Villages	Village Requirement	Completions / consents granted (1/4/2006–31/3/2013)	Level of development
Baltonsborough	45	27	18
Beckington	55	12	43
Butleigh	45	17	28
Chewton Mendip	15	4	11
Chilcompton	70	78	-
Coleford	70	34	36
Croscombe	35	4	31
Ditchheat	25	4	21
Draycott	65	27	38
Evercreech	70	35	35
Mells	10	4	6
Norton St Philip	45	73	-
Nunney	55	1	54
Rode	65	30	35
Stoke St Michael	45	8	37
Westbury sub Mendip	50	10	40
TOTALS	765	368	433

TABLE 8: Proposed Housing Requirements for Primary Villages 2006-2029. Development figures are updated annually and published on the Council's website.

Secondary Villages	Village Requirement	Completions / consents granted (1/4/2006–31/3/2012)	Level of development
Binegar/Gurney Slade	40	9	31
Coxley	40	21	19
Doulting	15	4	11
Faulkland	20	5	15
Holcombe	40	43	-
Kilmersdon	15	14	1
The Lydfords	25	3	22
Meare/Westhay	40	84	-
Oakhill	40	43	-
Walton	40	29	11
West Pennard	25	6	19
Wookey	40	33	7
Wookey Hole	15	15	0
TOTALS	395	309	136

TABLE 9: Proposed Housing Requirements for Secondary Villages 2006-2029. Development figures are updated annually and published on the Council's website.

- 4.35 The total housing proposed in the Primary and Secondary Villages amounts to 1160 homes. This leaves 620 of the 1,780 total earmarked for the rural area. 405 of these already arise from dwellings granted consent or built in other rural locations between 2006 and 2013. The remaining 230 are currently unallocated, however it is expected that further consents will be granted outside of the villages identified in this Local Plan prior to its adoption. Furthermore, opportunities will continue to exist within existing development limits and on well related brownfield sites and so a limited degree of overprovision can be expected. Monitoring of completions and consents will seek to ensure supply is managed within the overall framework of this Local Plan.
- 4.36 In terms of how the Council will promote the delivery of the proposed housing requirements in each place. The following principles will be followed:

- a. In villages where the residual level of development is less than 15 homes the Council will, with regard to the supply of development land within existing development limits, assume that housing supply will be delivered from small site development within defined development limits during the remaining period to 2029. Where land supply suggests this is not achievable, small adjustments of existing development limits will be made in the Local Plan Part II: Site Allocations process. Recommendations about areas of land to include will be based upon views expressed by the community where there has been an informed and objective consideration of the relative merits and drawbacks of sites promoted through the [Strategic Housing Land Availability Assessment \(SHLAA\)](#).
 - b. In villages where the residual level of development is in excess of 15 homes, the Council will, with regard to the supply of development land within existing development limits, allocate sites and/or make adjustments to existing development limits to deliver the majority of the residual housing requirement through the Local Plan Part II: Site Allocations process. Recommendations about areas of land to include will be based upon views expressed by the community where there has been an informed and objective consideration of the relative merits and drawbacks of sites promoted through the Strategic Housing Land Availability Assessment (SHLAA).
 - c. The selection of sites within the Local Plan Part II: Site Allocations process will be informed by the relative benefits and disbenefits of sites and in line with relevant national planning policies, the Local Plan, site specific Sustainability Appraisal work and any local material considerations.
 - d. In all circumstances the Council will ensure that new land released makes appropriate contributions to the delivery of local infrastructure or contributes to wider strategic objectives defined as being relevant to the community concerned or the wider locality. In all cases this will include affordable housing provision in line with Development Policy 11.
- 4.37 It should be noted that the Local Plan Part II: Site Allocations process will not begin until 2014 and is unlikely to be concluded until mid 2016 based on the current procedural requirements. The residual levels of development in each village will be monitored to ensure that when allocations come to be made all recently completed and consented development is accounted for.

Affordable Housing

- 4.38 Affordability in Mendip's housing market has worsened considerably in the last decade. [The West of England Strategic Housing Market Assessment \(2009\)](#) considered a range of measures in the broader housing market. A key figure in the tables prepared for Mendip's sub-housing market areas was that even during the best market conditions (higher supply, shallower rises in house prices) only 61% of newly forming households would be able to afford to buy or take on market rents for housing across the district as a whole. In Frome and Shepton Mallet the levels were marginally less with the best situation allowing up to 65% of new households to compete in the housing market. In Wells, for much of the next decade, less than half of new households will be able to reasonably access market housing. Updated information in a [Housing Needs Assessment](#) produced for the Council in 2012 indicates that the situation is not improving despite recent falls in house prices. Using a slightly different methodology it records that the proportion of newly forming households unable to afford market housing increased to 75% in 2012.
- 4.39 A supply of affordable housing is therefore important yet chronic undersupply already ensures that a backlog of around 1,224 households are on the Council's waiting lists in 2012. If all those projected to be in housing need notified the Council to join the waiting list, that figure could increase by 522 to 743 per year until 2016, depending upon differing assumptions used.
- 4.40 Since 2010, the Government has introduced a range of changes to the funding and manner in which it sees housing needs being met including a proposed cap on housing benefit, replacement of properties in "social rented"⁹ tenures with new ones in an "affordable rented" tenure and

⁹ Affordable Housing is an umbrella term for a range of tenures of housing. Social Rented properties are made available at rent levels typically below 30% of market rents. Affordable Rented properties are typically let at 75% of market rents. There are other tenures within a grouping called Intermediate Housing where rents or purchase prices are set anywhere between 70 and

indication that the private rented sector can be used to address a higher proportion of need. Such measures may address those households whose incomes fall just short of being able to compete in the open housing market, however in Mendip, where median incomes fall short of that needed to secure even “affordable rented” properties it remains unclear how far these measures will tackle the scale of the problem indicated by the research referred to above. To compound the problem further, the economic downturn since 2009 has seen development viability decline in turn limiting the proportion of affordable housing able to be negotiated on the back of market housing.

- 4.41 Given that the proposed 9,635 housing requirement for Mendip as a whole would deliver around 420 homes per year to 2029, it is clear that the problem is not one that can be fully solved through the level of development considered appropriate in the previous section. The council continues to work closely with Housing Associations to facilitate their affordable housing delivery programmes. Ultimately the Council is open to negotiation about any scheme that can secure and make available housing to meet identified needs.
- 4.42 Against this background, the Council will continue to maximise, as far as development viability can bear, the delivery of affordable homes. As a result Core Policy 2 sets out the Council’s intention to secure affordable housing, or a contribution in lieu on small sites. The mechanics of these requirements are addressed in more detail in Development Policies 11 and 12.

Housing Density

- 4.43 The Council does not intend to impose a rigid housing density policy for new residential developments. The density of development should primarily be established through careful consideration of local context, local character and specific site conditions having regard to matters set out in Development Policies 1-10.
- 4.44 Nevertheless, the Council is mindful that land is efficiently used in order that the need for new greenfield land for development is minimised. Hence, as broad guidelines, the net density of new housing development (i.e. the developable area excluding roads, footpaths and other public areas) should aim to be equal to or greater than the levels set out below.
- Sites within towns - 30-40 dwellings per hectare
 - Sites in rural areas - 25-30 dwellings per hectare
- 4.45 Issues arising from higher density development will be managed by Development Management Policies, notably those related to design, amenity and environmental protection. Where an application for development is of a density significantly lower than the guidelines above without reason that is obviously apparent from the local context, applicants will be expected to specifically explain their approach in their Design and Access Statement.

Gypsy and Traveller Accommodation

- 4.46 Government has made it clear that provision to meet the needs of Gypsy and Traveller communities must be planned for through the Local Plan process as set out in a separate policy document called “[Planning Policy for Traveller Sites](#)” published alongside the National Planning Policy Statement in March 2012. In essence it sets out that where councils do not adequately plan for these needs, planning applications for sites in any location (subject to conformity with national and local planning policies) may be granted on appeal to the Planning Inspectorate.
- 4.47 The Council intends to plan for the level of provision set out in the most current [Gypsy and Traveller Needs Assessment](#) (as set out in the text supporting Development Policy 15) when it undertakes a dedicated Site Allocations DPD in 2014 and, in advance of that, will undertake an exercise to identify potential sites to allocate in the same way that the Strategic Housing Land Availability Assessment (SHLAA) does for mainstream housing.
- 4.48 In the interim period, proposals submitted to the Council will be assessed against the criteria within Development Policy 15 as well as the content of “Planning Policy for Traveller Sites.” The criteria

in the policy will also be used to consider the suitability of potential sites it may seek to allocate.

Core Policy 2: Supporting the Provision of New Housing

1. Provision for a minimum of 9,635 additional dwellings will be made in line with the table below over the plan period from 2006 to 2029.

	Settlement	New homes 2006-2029	Annual target provision	% of the district requirement
	Frome	2,300	105	25%

2. Delivery of housing will be secured from:

- a. Infill, conversions and redevelopments within Development Limits defined on the Policies Map subject to compliance with national planning policy and specific policies within the Local Plan, particularly matters relating to design, local distinctiveness and identity and amenity.
- b. Strategic Sites identified on the Key Diagrams for each town associated with Core Policies 6-10. On the Policies Map, detailed extents of Housing Allocations within the Strategic Sites are shown which are capable of delivering housing to 2029 as identified in Table 7.

Strategic Sites for Frome, Shepton Mallet, Street and Wells include Future Growth Areas shown on the Policies Map. Areas of land within these Future Growth Areas will, where necessary, be released for development through a formal Site Allocation process or where:

- i) the Council otherwise determines in the light of evidence that the rate or volume of housing provision should be increased in the relevant town; or
- ii) the release of land is needed to logically contribute to a better pattern of development in the release of sites allocated for development.

All Strategic Sites will be the subject of Development Briefs, Masterplans or other agreed pre-application processes (to be prepared from the outset in dialogue with the local community) which will then, if necessary, be adopted as Supplementary Planning Documents (SPD) prior to the granting of any planning permission for new housing or mixed use development. Where adjacent Future Growth Areas are identified, Development Briefs will be expected to indicate a broad provisional form of subsequent development areas including substantive infrastructure or community facilities.

- c. Other allocations of land for housing and, where appropriate, mixed use development, outside of Development Limits through the Site Allocations process in line with:
 - i) the principle of the proportionate growth in rural settlements guided by the requirements identified within supporting text above
 - ii) informed views of the local community
 - iii) the contribution of development since 2006 towards identified requirements in each place, development with planning consent and capacity within existing Development Limits.

All allocations made will be the subject of an appropriately detailed Masterplan or other agreed pre-application process prepared with the relevant community and, if necessary, adopted as a Supplementary Planning Document prior to the granting of planning permission.

3. Housing developments will make contributions towards the delivery of affordable housing in line with Development Policies 11 or 12.

Core Policy 2: Supporting the Provision of New Housing

1. Provision for a minimum of 9,635 additional dwellings will be made in line with the table below over the plan period from 2006 to 2029.

	Settlement	New homes 2006-2029	Annual target provision	% of the district requirement
Towns	Frome	2,300	105	25%
	Glastonbury	1,000	45	11%
	Shepton Mallet	1,300	60	14%
	Street	1,300	60	14%
	Wells	1,450	65	16%
Villages	16 Primary Villages, 13 Secondary and other Villages	1,780	80	20%
District	Additional requirement 2011 to 2029 as per 4.21 of the supporting text	505		
Total	Mendip District	9,635	420	100%

Supporting Business Development and Growth

Overview

- 4.49 The needs of the Mendip economy have been central in considering the strategy pursued in this Local Plan. In the deliberations over housing numbers and in drafting the Town Strategies set out in section 5, business and employment growth as well as the health of the labour market have been carefully analysed.
- 4.50 A successful local economy is only as good as the opportunities that are made available to establish new enterprises, the workforce it offers and the entrepreneurs that can be encouraged, retained or attracted to the area. This Local Plan intends to set out a position that “**Mendip is Open for Business**” by limiting the amount of policies put in the way which may hold back the rapid delivery of new economic activity and also by promoting a range and choice of sites and premises which enable as broad a spectrum of end users to find a niche in the district. The wider flexibility of the plan should also enable new firms, existing firms and those from outside the area to approach the Council with the confidence that planning is not a barrier to economic development and job creation.

Overall Prospects for the Mendip Economy to 2030

- 4.51 Section 2 of this Plan gives an overview of the structure and prospects for the local economy. Analysis for the Heart of the West of England Local Enterprise Partnership (LEP)¹⁰ undertaken in 2012 indicates that in pure employment growth terms the district has the preconditions to deliver the highest level of average annual employment growth in the period from 2012 to 2030 across the whole of Devon and Somerset. Whilst that level of job growth will be around a third lower than observed in 2000-12, it is important that this potential is exploited.
- 4.52 Mendip’s economy is generally a diverse one with all main sectors represented in some way. There are few large companies and a lot of activity is focused around local trade. To some extent, this has meant that the local economy has remained resilient during the financial crisis and recession since 2008. Projected job losses have not materialised and the LEP work sees Mendip, again, at the top of the list of district/unitary areas in terms of the time taken for employment to recover to pre-recession levels.
- 4.53 **Projected growth** in coming years is most clearly expected in the Business Services and Other Services which have recently been disaggregated into six main groupings. Four of these – Information and Communication, Business Administration/Support Services, Arts, Entertainment and Recreation, and most significantly, Professional, Scientific and Technical – have the greatest growth potential.
- 4.54 These uses are relatively footloose in the sense that they can be located in a range of settings varying from urban and rural home offices, studio space in converted buildings, commercial premises in town centres as well as business/office parks. All of these can be relatively compatible with residential uses which mean that their locations are not particularly limited. The same can be said for hospitality businesses although the primary focus for these will be town centres, other commercial clusters and rural locations linked to leisure and recreation activities.
- 4.55 The traditional industrial estate and trading estates where the range of uses may be less compatible with other uses, notably housing, will still have a role. Storage and distribution, haulage, construction and other services such as waste management, motor trade and niche manufacturing all have growth and modernisation potential.
- 4.56 Health and education represent the most prominent public service employers in the district. New provision at Glastonbury and Frome in recent years has already delivered new jobs. However, the challenges of caring for the ageing population and growth in alternative therapies mean that there is an increasing private component. Private schools and other training enterprises mirror this in the education sector.

¹⁰ Local Enterprise Partnerships are successors to the previous Regional Development Agencies. Involving private and public sector interests the Heart of the South West of England LEPs stated purpose is to lead and influence outcomes for economy of Devon, Somerset, Plymouth and Torbay by improving economic growth and job creation.

- 4.57 Agriculture and quarrying, two significant rural sectors, are expected to remain static or see modest decline in employment on the back of modernised working practices and a consolidation of activity into fewer, larger operations.

Economic Vision and Strategy

- 4.58 The Vision within the Council's corporate plan for 2012-2015 is *Mendip - a place to be proud of - where people, communities and businesses are encouraged to achieve their potential*. Underpinning this, are four priorities that provide a framework for this to happen. One of the priorities is to *support business development and growth*. A review of Mendip's economic strategy is currently underway to ensure that the role of the Council is refocused and that as an organisation it is better placed to help grow the economy and deliver business development activities.

Land Supply

- 4.59 The availability of traditional employment land on industrial estates, trading estates and other sites varies from town to town. All have well established estates which are hives of diverse activity and there is a reasonable amount of turnover, offering space of varying prices and configurations.
- 4.60 Commerce Park at Frome, Morlands at Glastonbury and Cathedral Park at Wells represent new high quality serviced land available to accommodate new and growing businesses. Similar land at Street Business Park is expected to come online in the next few years. Other land, where the principle for employment use has been established, exists at Dulcote Quarry near Wells and the Bath and West Showground site.
- 4.61 In rural areas, small business parks and trading estates exist linked to villages or in more remote locations and they are supplemented by converted rural premises which offer space of varying quality and size.
- 4.62 New employment land needs have been established using data from three broad areas of work, namely:
- a) [Economic Projections](#) – a broad assessment of the likely growth of jobs in the local economy was undertaken in spring 2012 by Oxford Economics for the Heart of the West of England LEP. Following a review of this data, the Council has chosen to plan for mid range job growth as set out in the table below. Having identified likely job creation at a town level, broad assumptions about land and necessary floorspace requirements have been applied to identify new land needs and understand the types of development to plan for.
 - b) Development Monitoring – understanding the level of new completions, changes of use and, losses enables supply to be paced to demand.
 - c) [Land and Premises Survey](#) – undertaken every 5 years this study allows the state of existing main employment sites to be assessed in order to determine their ongoing contribution to the needs of business in the area and their impacts on communities. The 2012 version incorporates the survey of local businesses to understand likely needs of existing firms already present in the district. This helps understand emerging land demands driven by modernisation, trends in business practice, support needs and other expectations.
- 4.63 The considerations around the level of new floorspace and land to be allocated are set out in the [Employment Land and Premises Technical Paper](#) (October 2012) and can be summarised as set out in the table below. The types of space have been broadly disaggregated to enable some understanding of the likely needs for space taking into account the types of activity – i.e. its compatibility with other land uses.
- 4.64 The **Traditional Employment Land** typology groups uses where impact from goods vehicles, on site noise and disturbance and building scale would warrant specific land provision. This would include storage and distribution uses, construction yards, bulk processing and larger scale manufacturing uses.

- 4.65 At the other end of the spectrum are **Town Centre Uses** such as offices, hospitality, shops and leisure uses which, with appropriate design, can be readily integrated into most urban settings.
- 4.66 Between the two are **Commercial Uses** such as motor trade uses, research and development and some property management activities which could be accommodated as part of mixed use development or in tandem with industrial land provided that appropriate infrastructure and amenity considerations are observed.
- 4.67 Demands for space for education and health uses are not quantified as the nature of facilities will vary from schools, training facilities and health centres down to consulting rooms and optician shops which could be accommodated in town centre, commercial or even residential settings.

<i>All figures in hectares unless stated</i>	Frome	G bury	Shepton	Street	Wells
Projected new jobs (Mid range figures)	2,696	1,041	1,296	856	1,502
Net Additional Floorspace needs by land type to meet Job Growth (sqm)					
- Traditional Employment Land	3,900	3,100	3,900	500	6,500
- Commercial Uses	8,850	4,400	6,600	2,700	9,850
- Town Centre Uses (excl. Retail)	11,850	4,200	5,450	7,100	9,750
Total	24,600	11,700	15,950	10,300	26,100
Net Additional Employment Land to meet Projected Job Growth Traditional Employment Land/ Commercial Uses only.					
TOTAL	3.8	2.2	3.1	1.0	4.7
Needs identified from business community (to 2016) (as set out in the 2012 Employment Land and Premises Study)					
- Pent up demands	2.4	0.0	0.1	0.0	0.2
- Modernisation	0.2	2.7	1.6	3.2	0.2
- Self employment/Incubation needs	0.6	0.3	0.3	0.3	0.3
- B Class losses compensation	0.0	0.0	0.0	0.0	5.0
- Demand from neighbouring areas	2.5	-0.5	0.5	0.5	0.0
- Home working (10% of commercial)	-0.3	-0.1	-0.2	-0.1	-0.3
- Further allowances for 2016-2026 (reflecting elements above)	11.0	2.0	9.0	5.0	1.0
TOTAL	16.4	4.4	11.3	8.9	6.4
TOTAL PROJECTED LAND DEMAND	20.2	6.5	14.4	9.9	11.1

Net gains / losses of employment land since 1.4.06-31.3.11 (where there is no commitment to re-provide jobs on site)	8.02	2.03	0.46	1.12	-5.06
Consented Development at 31/3/2011	8.62	4.17	0.13	3.91	18.99
Allowance for Bath & West Showground site.			10.11		
TOTAL LAND SUPPLY at 31.3.11	16.64	6.20	10.70	5.03	13.93

SURPLUS/(DEFICIT) to 2030	(3.59)	(0.34)	(3.67)	(4.84)	2.84

TABLE 10: Summary calculations determining employment land supply 2006-30

Leisure, Recreation and Tourism

- 4.68 Leisure, Recreation and Tourism are an important part of the Mendip economy generating prosperity from the array of natural, historical and cultural assets which the district is blessed with. The area serves a significant role in meeting short trip visits from people living in the surrounding major urban centres but also has its own events and qualities which encourage longer stays in the area, most notably the [Glastonbury Festival](#) and associated events which in 2007 was estimated to bring over £73m to the economy.
- 4.69 Whilst wanting to encourage visitors to come to the district and enjoy their experience, the Council has always been mindful that tourism can have its drawbacks. Overdevelopment associated with the varied features which attract people to the area only contributes to diminishing the overall experience which visitors and local people benefit from. This in turn undermines the wealth creating opportunities. As a result, the Council aims to take a measured approach to considering tourist development with a primary aim being to ensure that the quality of provision is maintained and improved, whilst the scale of development is in keeping with the area and its constituent communities.

Improving the potential of the local workforce

- 4.70 Any workforce has to be adaptable to change and in the last 20 years Mendip's towns in particular have seen a transformation in their local economies arising from changing business practices and most notably globalisation. The local workforce, through its own efforts and some support from public agencies, has for the most part up-skilled from lower paid manual activities to those, for example, of a semi-skilled and customer focused nature or have established their own businesses.
- 4.71 In planning for the future, particularly one where global pressures are more prominent, the Council wants to promote a better partnership between businesses and the area by encouraging investment in people as well as places. By improving skills through occupational training employees can be more productive and responsive to the needs of business, in turn enabling wage levels to be improved, which is important given the issues of affordability in the housing market.
- 4.72 Accordingly, where new business investment is proposed that would create 10 or more jobs, the Council will seek to negotiate a local labour agreement which will be aimed at encouraging businesses to offer new jobs in the local area in the first instance, put in place training arrangements with local providers and, where appropriate, encourage procurement of goods and services locally to reinforce business networks and the local economy.

Core Policy 3: Supporting Business Development and Growth

1. Proposals for economic development will be supported where they:
 - accord with the Spatial Strategy defined in Core Policy 1 and, in rural areas, the principles set out in Core Policy 4;
 - encourage a diverse, robust, thriving and resilient local economy;
 - enhance the image of the area as a business location;
 - limit the growth in demand for private transport and are accessible by sustainable transport modes;
 - offer higher quality job opportunities to local people or improve the skills of the resident work force;
 - consider options for the use of local contractors and supply chains in the construction and subsequent running of the enterprise.
2. The Council will plan for the creation of 9,410 new jobs in the period 2006-2029 and facilitate provision of land and premises in line with the amounts detailed in the following table to accommodate this growth and the needs of business in the area.

Settlement	Projected jobs (Mid to upper range)	Net new floorspace demands (sqm)	Employment land required (Hectares)
Frome	2,696	24,600	20.2
Glastonbury	1,041	11,700	6.5
Shepton Mallet	1,296	15,950	14.4
Street	856	10,300	9.9
Wells	1,502	26,100	11.1
Rural Areas	2,019	Approach set out in Core Policy 4	
TOTALS	9,410	88,650	62.1

Further details about the nature and location of future provision are set out in the Town Strategies in Core Policies 6-10.

3. The Council will support proposals which extend the attraction of the area to visitors.

The Council is keen to ensure that the path to securing planning consent, especially for business development, is as smooth as possible.

The most effective means of achieving a swift decision is for applicants and agents, or business owners themselves, to contact the Council well before a development scheme begins to be conceived. This will allow relevant matters to be explored and clear advice given about the level of supporting information that may be required in making an application. Furthermore, where relevant, third party advice from other organisations (e.g. Highway Authority, Environmental Protection) can be secured in good time.

This early engagement will enable any subsequent planning application to be more easily determined.

Sustaining Communities in Rural Mendip

- 4.73 Core Policies 6-10 in section 5 set out strategies for the district's principal towns to outline how strategic level needs will be delivered. As considered in the Spatial Strategy (set out in Core Policy 1) they are the main focal points for growth.
- 4.74 However, as set out in the district wide Vision, Mendip is a predominantly rural district and the Local Plan needs to give a clear view of the development principles which will apply across this varied area. Distilled from the *Vision for Mendip* and associated objectives in section 3, the priorities for rural development can be summarised as:
- Protection of the open countryside for its intrinsic value and as a resource for a range of uses including wildlife, agriculture, tourism and recreation.
 - Provision of housing to meet specific local needs including affordable housing to enable people to live and work locally or stay in communities where they have a clear local connection.
 - Delivering most development in places where people can access services and facilities using a choice of means of transport.
 - Supporting the rural economy, although ensuring that the scale of development is appropriate to the rural setting.
 - Protection of essential community infrastructure and ensuring that it is extended where development imposes undue burdens upon it.
- 4.75 Detailed proposals specific to individual villages will be pursued through the Site Allocations process (Part II of this Local Plan – to be commenced in 2014) but this section establishes an overall strategy for rural development. However, for most other forms of rural development, the Council will not be as prescriptive and will use national guidance and development management policies set out in section 6 of this document to determine applications for development.

Housing

- 4.76 Core Policies 1 and 2 establish an overall framework for the distribution and amount of housing development across rural Mendip with the main elements being:
- focusing all new planned development in the identified Primary and Secondary Villages where new rural residents will have good access to basic services and facilities including a public transport choice.
 - delivering all locally arising needs and a proportion of wider household growth which will occur in response to people choosing a rural lifestyle by moving from other areas.
- 4.77 Paragraph 4.28 concludes that whilst all projected household growth across the district will be met, a proportion of the non-local growth in rural areas will not be provided for on account of the scale of development this would impose on some villages. The implications of this are that undersupply may further pressurise affordability for local people. In response to this it is valid to point out that:
- The Plan as a whole makes provision for 9,635 new homes across Mendip district having objectively assessed needs associated with household growth, job creation and labour market dynamics.
 - Greater attention to the mix of housing being delivered in rural communities under Development Policy 14 should mean that more new housing is better suited to needs in the local market rather than what housebuilders, over recent years, have been delivering to appeal to buyers from further afield.
- 4.78 A further area of concern raised in consultation was that the concentration of new development into a limited number of villages would condemn smaller villages and hamlets to higher prices, declining demand for, and consequential loss of, local services and an inability of rural workers to secure housing.
- 4.79 In response to these issues, the key point needing to be addressed is how new rural development can be focused to better meet local needs, and particularly, to deliver more affordable homes. Making allocations of housing in smaller villages would satisfy both concerns. However, to allocate small sites across a further tier of villages would be a mammoth undertaking.

Furthermore allocations could not be guaranteed to focus on meeting local needs as premium land values would necessarily justify viable developer returns accrued through more large, high value properties that don't tackle the fundamental issue at hand.

- 4.80 In line with the principles of Localism, and to bypass the need for a community referendum which the government's Community Right to Build imposes, the Council considers that a community led or community supported development is a progressive means for all Parish Councils to have a greater say in the development that they need.
- 4.81 Clause 2 of the policy below, clarified in more detailed terms in Development Policy 12, makes allowance for Rural Exception Sites, and as the National Planning Policy Framework allows for, the Council has concluded that such sites can now include an element of market housing where four additional tests are met.
- 4.82 In addition to this policy, the Council is also mindful of the continuing need to provide accommodation for rural workers who by nature of their land based enterprises, need to live on or in close proximity to their holding. Development Policy 13 sets out the circumstances and policy measures which applicants will need to satisfy in securing planning permission for such properties.

Economic Development

- 4.83 Rural Mendip is an extensive area with a range of economic development opportunities that are able to be exploited. Agriculture, quarrying and tourism are key examples, however there are a plethora of small businesses, of a scale appropriate in a rural setting, which generate wealth and employment. However, as policies in this Plan and within national policy make clear, the desirability of unfettered development in the countryside must not undermine its intrinsic value. Indeed, recreation and tourism is predicated on the back of the district's rural character. In line with Core Policy 3, the Council will support the emergence and growth of rural enterprises and clause 4 of the policy below sets out additional specific policy relating to rural economic development.
- 4.84 A key element of the approach is an acknowledgement that the evolution of small enterprises, perhaps based initially in a domestic setting or converted rural buildings (as allowed for under Development Policy 22), into larger businesses may not always be appropriate. This may be because, for example, of the impact of new buildings in the rural setting, or higher levels of traffic generation on unsuitable rural roads. However, to move the business from its origins to a town may sever employee links or change the business ethos or image. In response to this, and to rebuild inherent sustainability of rural settlements the Council intends to be proactive in promoting allocations of small employment sites in the Primary Villages listed in Core Policy 1. This does not exclude the potential for schemes to be brought forward by applicants in other villages.
- 4.85 Clause 5 of the policy gives a steer that the delivery of new community facilities will be supported whether commercial or otherwise. Subject to support from the community, the Council may consider that other forms of development – typically housing – could be used to cross subsidise new facilities. In such circumstances the Council will require open book accounting of the scheme to demonstrate that any additional development is proportionate to the cost of delivering the proposed facility and that a viable business plan is provided by a committed operator, or community group.

Local Infrastructure

- 4.86 Rural development has largely been incremental in nature and this means that the impact on local infrastructure, whether services like sewage systems or facilities like schools, cumulatively take on more and more demand. Critical thresholds have, or are close to being reached in some communities as set out in the Infrastructure Delivery Plan accompanying this Local Plan. As set out in Core Policy 1 new development will be expected to contribute to new local infrastructure and in some cases this may mean that upgrade works will be required prior to any new growth being accommodated.
- 4.87 Community facilities have seen decline over many decades in response to changing social trends, competition from town based commercial activity, wider car ownership, technology and, consequentially, economics viability. The Council cannot hold back many of these changes and it

is for operators to adapt, diversify and maintain custom from their communities. Planning policies will broadly support any efforts by operators. However, there are examples where individuals or organisations make decisions of convenience, typically to capitalise a land asset or building that would condemn an otherwise viable service or facility to be lost with clear consequences for users in the community. Development Policy 17 sets out a number of tests that will be applied where development or a change of use affecting a premises used for a community use is proposed.

Core Policy 4: Sustaining Rural Communities

Rural settlements and the wider rural area will be sustained by:

- 1. Making planned provision for housing within the Primary and Secondary Villages having regard to identified constraints and at a scale commensurate with the existing housing stock in line with Core Policies 1 and 2.**
- 2. Identifying and delivering opportunities for the provision of rural affordable housing, secured for the benefit of the community in perpetuity, where there is evidence of local need as set out in Development Policies 11 and 12.**
- 3. Making allowance for occupational dwellings in rural locations, where there is a proven and essential functional need, to support agricultural, forestry and other rural-based enterprises set out in Development Policy 13.**
- 4. Supporting proposals for development of the rural economy as set out in Core Policy 2 which,**
 - a. deliver modest clusters of flexible premises able to meet the needs of the rural economy in the Primary Villages identified in Core Policy 1, or**
 - b. enable the establishment, expansion and diversification of business in a manner and of a scale which is appropriate to the location and constraints upon it, or**
 - c. involve the conversion of existing buildings for an economic use as considered under Development Policy 22.**
- 5. Support for viable schemes which extend the range of community infrastructure allowing local people to secure more of their everyday needs locally.**
- 6. Ensuring that where development imposes burdens which exceed the capacity of existing facilities, new development is phased for delivery in line with improvements to the relevant infrastructure.**
- 7. Safeguarding community facilities and commercial premises, or premises formerly used for such purposes, in line with Development Policy 17.**

Encouraging Community Leadership

Local Context

- 4.88 The District Council takes a leading role in defining the issues of the district and works with partners to ensure they are addressed. In this, the Council's role is as much to work to enable actions to be taken forward by other agencies as it is to undertake direct delivery. In a context of decreasing resources, it is imperative that the Council uses the resources at its disposal to best effect. In the sphere of planning the District Council will continue to maintain the role of Local Planning Authority and in exercising this function it must retain a strategic overview.
- 4.89 However, a community leadership role complements the strategic role, encouraging and supporting the development of communities so they are able to take forward issues at a local level. Stronger links must be built between the public organisations, including the District Council, and parish councils to encourage greater ownership of issues and services at parish level. There must also be an understanding between parish councils and other public organisations of the role each can take in developing and supporting the community through encouraging local self-action. These are the principles of Localism.
- 4.90 To this end, policy making and decisions about development will always be better informed by the input of local communities where development is proposed. The development process makes allowance for the views of communities and affected parties to comment upon development proposals but this is more often than not reactive to relatively advanced proposals. Since the 1990's a range of initiatives, some of which are described in the adjacent box, have been promoted to enable communities to be more proactive in defining their goals whether related to development or to the achievement of wider objectives involving other interests.
- 4.91 The following policy therefore gives a clear and positive statement that community led guidance, where informed by evidence, prepared in consultation with the wider community and formally endorsed by the Council will be given full weight in the development process, informing future planning policy and proposals as well as helping the Council to approve better development.

Examples of Community Led Guidance

Parish Plans are underpinned by an informed and consultative preparation process providing a means for local communities to articulate short, medium and longer term goals aimed at improving quality of life, economic activity and maintenance of environmental quality. Ensuring buy in by interests who will deliver action is an essential part of the process, and where achieved – through collaborative negotiation - the activity of local groups, public agencies and private investment can work towards the outcomes over time.

Town and Village Design Statements, again prepared in a consultative manner, allow communities to define what is important and characteristic about their locality in order that new development proposals can be better informed.

Local Housing Needs Assessments provide a means for local needs to be better understood in order that affordable housing schemes and market housing proposals deliver the right types of housing.

Neighbourhood Plans

- 4.92 During the preparation of this Local Plan, the Government has introduced Neighbourhood Plans which offer opportunities for parish and town councils to shape how development takes place in their communities. Within available resources, the Council will support the preparation of such plans which have a prescribed procedure as set out in regulations. Section 1 of the plan explains a bit more about this and the interaction of policies in Neighbourhood Plans with this Local Plan.
- 4.93 Some communities have questioned whether Neighbourhood Plans supersede the types of guidance described above. The simple answer here is no. The need for information and guidance about community needs, built character and local aspirations remains and may be important as a starting point to define what a Neighbourhood Plan might contain. In many cases, these forms of guidance may be all that a community needs to, say, encourage better design or deliver homes that are better tailored to the needs of local people.
- 4.94 Parish and town councils are encouraged to get in touch with the District Council at an early stage to discuss what they want to achieve and in turn, officers will advise on what would be the most

appropriate course of action for the community to pursue. Information is available on the Council's [Neighbourhood Planning](#) website.

Core Policy 5: Encouraging Community Leadership

Where adopted by the District Council, the views of a community expressed in a Parish Plan, Town or Village Design Statement, Local Needs Assessment (or other forward looking structured document which has had the benefit of wide community involvement) will be a significant material consideration in:

- pre-application discussions with development interests,
- the determination of planning applications,
- negotiation of development contributions towards realistic identified projects which can be delivered with a defined timescale,
- future policies and development proposals (as part of the prescribed process),
- any reviews of wider service delivery by the Council.

In order to be adopted by the District Council, community led guidance needs to:

- be informed by robust evidence and the wider strategic context,
- have involved clear stages of wide local community engagement,
- be formally endorsed by the Parish Council(s),
- have a delivery plan whose actions are supported by relevant stakeholders,
- demonstrate how effectiveness will be reviewed over appropriate timescales.

GLOSSARY

Unfortunately the complexity and technical nature of the planning system can be a barrier to people becoming involved, particularly the use of acronyms and confusing terminology. Whilst we endeavour to keep our documents as clear and understandable as possible, there is still likely to be some content that is unfamiliar or for which further clarification is required. To provide some assistance on this we have included a glossary of key technical terms below.

Key Terms

Adoption	The final confirmation of a Development Plan or one of its subsidiary parts by a local planning authority (LPA) bringing it into formal use.
Accessible Natural Greenspace Standards (ANGst)	A set of benchmarks for ensuring access to a variety of green spaces near to where people live.
Affordable Housing	Social rented and intermediate housing, provided to specified eligible households whose needs are not met by the market. A full national definition is set out in the National Planning Policy Framework.
Allocated	Land which has been identified in the Local Plan and shown on the Policies Map (or inset map) for a specific form of development.
Amenity	Those qualities of life enjoyed by people who can be influenced by the surrounding environment in which they live or work. 'Residential amenity' includes, for example, a reasonable degree of privacy, freedom from unacceptable levels of noise, air and light pollution".
Ancillary	Use or structure which is related to and often found in association with primary use or development. For the purposes of planning ancillary uses that are materially different would typically be tolerated up to 15% of a wider site area. For example, a trade counter (retail use) within a larger warehouse (distribution use).
Authority's Monitoring Report (AMR)	A report on how the Council is performing in terms of the effectiveness of its Local Plan. Includes a review monitoring data to determine the success of planning policies.
Area Action Plan (AAP)	A type of Development Plan Document focused upon a specific location or an area subject to conservation or significant change (for example major regeneration). There are no Area Action Plans proposed in Mendip currently
Area of Outstanding Natural Beauty (AONB)	A statutory landscape designation to recognise, conserve and enhance landscape of national importance.
Aquifer	Underground layer (stratum) of rock in which water naturally occurs. Water for human use may be extracted by means of wells or boreholes.
Biodiversity	The range of life forms which constitute the living world, from microscopic organs to the large trees, animals, their habitats and the ecosystem in which they live.
Biodiversity Action Plan (BAP)	An internationally recognized program addressing threatened species and habitats and is designed to protect and restore biological systems. Biodiversity Action Plans are prepared at various geographic scales. There are BAPs for Somerset and Mendip.
Brownfield Land	Previously developed land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure (does not include agricultural buildings and, since 2010, domestic gardens)
Built Environment	Surroundings which are generally built up in character. The collection of buildings, spaces and links between them which form such an area.
Climate Change	Natural or man made processes which result in changes to weather patterns on a global scale. The effects include changes in rainfall patterns, sea level rise, potential droughts, habitat loss, and heat stress. The greenhouse effect – arising from the build up of man-made gases in the atmosphere observed over the last two centuries – is a well recorded man made process. However, volcanic activity and permafrost melting are other

	examples.
Community Facilities	Services available to residents in the immediate area to meet the day-to-day needs of the community. Includes village halls, post offices, doctors and dentists' surgeries, recycling facilities, libraries and places of worship as well as commercial services and open spaces.
Community Infrastructure Levy (CIL)	Levy on development proposed by the government but charged locally with gathered funds used to deliver infrastructure necessary to support housing and economic growth.
Comparison Goods	Typology of purchased goods. Also see Convenience Goods. Defined as household or personal items which are bought on an infrequent basis and typically would involve the buyer comparing alternative styles/prices/types. Would generally include products like clothing, electrical goods and furniture amongst many other things.
Conservation Area	Area of special historic and/or architectural interest which is designated by the local planning authority as being important to conserve and enhance. Special planning controls apply within these areas.
Convenience Goods	Items bought for everyday needs. Includes food and other groceries, newspapers, drink and tobacco and chemist's goods. Generally such goods are used or consumed over a relatively short period. Also see Comparison Goods.
Core Strategy	A Development Plan Document forming the central part of a Local Development Framework under regulations that existed between 2004 and 2011. It sets out the spatial vision and strategic objectives of the planning framework for an area, having regard to the Community Strategy. This Local Plan is an evolved version of a Core Strategy.
County Wildlife Site	Wildlife habitat identified and designated as being of particular local interest of importance but is not of sufficient national merit to be nationally designated as, for example, an SSSI.
Curtilage	The area of land associated with a building. The curtilage of a dwelling house is normally its garden and the curtilage of a commercial building its ancillary open areas such as for parking/services and landscaping.
Culturally Significant Landscape	A landscape, modified, natural or built, that retains physical attributes of past interventions that are of significance. Examples include deer parks, deserted settlements and large-scale water management systems.
Development	Defined in planning law as 'the carrying out of building, engineering, mining or other operations in, on, over, or under land, or the making of a material change of use of any building or land' (see also Permitted Development).
Development Brief	A document that outlines how a large or complex site will be developed. It will set out an analysis of site context, development principles, design solutions and details about matters of implementation. It will contain maps and diagrams to articulate the issues and solutions proposed. Also see Supplementary Planning Guidance.
Development Contribution/Commuted Payment	Either a payment made by a developer to the local planning authority (usually secured by means of Planning Obligation) to fund provision of a facility needed to serve a development, but to be built or provided elsewhere or in some way other than by the developer, or a one off payment by a developer to another body to enable it to adopt a facility.
Development Management Policies	A suite of criteria-based policies to ensure that all development within the areas meets the spatial vision and spatial objectives. Mendip has decided to include these in section 6 of this Local Plan document.
Development Plan	A statutory document setting out the local planning authority's policies and proposals for the development and use of land and buildings. It is the starting point for the determination of planning applications as set out in the National Planning Policy Framework.
Development Plan Document (DPD)	A local planning policy document that has development plan status by virtue of being prepared subject to community involvement and independently examined.
Early Engagement	A very early stage of consultation and community involvement, when interested parties can help formulate and comment on aspects of the local

	authority's future planning proposal. Early engagement is also an important part of any development proposal in that a developer can explore local peoples views before designing a new development which it turn can then – potentially – be more responsive to local conditions.
Employment Land (B1, B2, B8)	Land used, with planning permission, or allocated in a development plan principally for offices, research and light industrial (B1), general industrial (B2) and storage / distribution (B8) uses.
Environmental Impact Assessment (EIA)	The process by which information is collected and reported on the environmental impacts of a project or proposal. This is then taken into account by the local planning authority when determining an application for planning permission. Certain types of applications for development are required to be accompanied by an EIA.
Environmental Statement	Written statement, required to be submitted by the applicant with certain kinds of planning application.
Evidence Base	The information and data gathered by local authorities to justify the "soundness" of the policy approach set out in Local Development Documents, including physical, economic, and social characteristics of an area.
Exception Test	In addition to the Sequential Test and in accordance with national policy, this test seeks to consider exceptional circumstances why a particular development would be acceptable in an area that is acknowledged to be subject to flood risk.
Flood Risk Assessment	An assessment of the likelihood of flooding in a particular area so that development needs and mitigation measures can be carefully considered.
Future Growth Area	An area of land, normally greenfield in nature, identified within the Local Plan as one being suitable to accommodate housing or employment future growth but which is still subject to formal allocation as part of the Site Allocation process.
Greenfield Land	Land (or a defined site) usually farmland, that has not previously been developed.
Ground Water Source Protection Zones	An integral part of land surface zoning within the Environment Agency's Policy and Practice for the Protection of Groundwater. In essence the zones limit the use of land for purposes which might result in contamination of water sources, or ensure that measures are in place to capture potential contaminants percolating into groundwater strata.
Habitat Regulations Assessment	Document to determine, understand and, if appropriate, mitigate impacts on European Designated wildlife sites (Natura 2000 sites).
Heritage Assets	Defined in the National Planning Policy Framework. A building, monument, site, place, area, or landscape positively identified as having a degree of significance meriting consideration in planning decisions. Heritage assets are the valued components of the historic environment. They include designated assets and assets identified by the local planning authority during the process of decision-making or through the plan-making process (including local listing).
Housing Needs Survey	Assessment of housing needs in the local area. This plays a crucial role in underpinning the planning policies relating to affordable housing and housing location.
Infill Development	Small scale development filling a gap within an otherwise built up frontage.
Infrastructure	The network of services to which it is usual for most buildings to be connected. It includes physical services serving the particular development (eg gas, electricity and water supply; telephones, sewerage) and also includes networks of roads, public transport routes, footpaths etc. In its widest sense the definition may also include open spaces, community facilities and commercial services which sustain a community's way of life.
Issues and Options	Produced relatively early as part of the preparation of Development Plan Documents and used for consultation and community involvement.
Key Diagram	A map based diagram to illustrate the broad proposals and contents of a development plan, normally contained within the main strategy or in relation to particular places.

Landscape Character Assessment	Identifies areas with similar features or qualities, mapping and classifying them and describing their character. It is based on an understanding of landscape character and of the natural, historic and aesthetic factors that combine to create local distinctiveness.
Legal Agreement	See Section 106 Agreements (S106)
Listed Building	A building of special historical and/or architectural interest considered worthy of special protection and included and described in the statutory list of such buildings. Also see Heritage Asset.
Local Development Framework (LDF)	A portfolio of planning documents required by legislation between 2004 and 2011 which collectively delivers the spatial planning strategy for the area. A former name for what is now included in the Local Plan.
Local Development Order	A Local Development Order grants planning permission for a site, sites or area for specific types of development (specified in the Order), and by doing so, removes the need for a planning application to be made. Local planning authorities have powers to make them.
Local Development Scheme (LDS)	A document that sets out what parts of the Council's planning framework are to be produced or reviewed and the timetable for their production.
Local Nature Reserve	Area of botanical or wildlife interest designated by a local authority.
Local Transport Plan (LTP)	A five-year integrated transport strategy, prepared by local authorities in partnership with the community, seeking funding to help provide local transport projects. The plan sets out the resources predicted for delivery of the targets identified in the strategy. Somerset County Council are the responsible authority.
Major Development	For residential - 10 or more dwellings or a site area of 0.5 hectares or more. For other uses- the floorspace to be built is 1000 square metres or more, or where the site area is 1 hectare or more.
Mitigation Measures	Any works or actions required to be carried out by developers to reduce or remove the impact of the development on the surrounding environment or to address particular environmental effects which would otherwise make that development unacceptable.
Monitoring	Regular collection and analysis of relevant information in order to assess the outcome and effectiveness of policies and proposals and to identify whether they need to be reviewed or altered.
National Policy Statements (NPS)	Provides national policy guidance for matters that are considered to be of importance
Natura 2000	An ecological network of protected areas in the territory of the European Union.
Neighbourhood Plan	New rights and powers for communities to prepare Neighbourhood Plans were introduced by the Localism Act (2011). Plans can be prepared by Parish Councils or, in unparished areas, an agreed forum to guide development in a local area. Plans must be subject to public consultation, an independent examination and public referendum. Once adopted, a Neighbourhood Plan will form part of the statutory development plan for that area and must be used when determining planning applications.
Passive Solar Energy	Energy provided by a simple architectural design to capture and store the sun's heat. An example is a south facing window in a dwelling.
Permitted Development	Certain categories of minor development as specified in the General Permitted Development Order, which can be carried out without having first to obtain specific planning permission.
Photovoltaic Cells	Technological component of solar panels that capture energy from the sun and transform it into electricity for use in homes and businesses
Planning Obligations	See Section 106 Agreements.
Planning Policy Statements (PPSs)	Set out the Government's national land use planning policies (now superseded by National Planning Policy Framework and National Planning Policy Guidance)
Preferred Options Document	Produced as part of the preparation of planning document. The council sets out what it thinks are the most appropriate set of policy responses to the issues needing to be addressed. These would be consulted on to seek views as to their validity prior to refinements being made.

Policies Map	A component of a Local Plan and an important part of the development plan. It shows the location of proposals in all current planning proposals and designations of land on an Ordnance Survey base map.
Protected Species	Any species (of wildlife etc) which, because of its rarity or threatened status is protected by statutory legislation.
Ramsar Sites	A term adopted following an international conference, held in 1971 in Ramsar in Iran, to identify wetland sites of international importance, especially as waterfowl habitat.
Regional Spatial Strategy (RSS)	Strategies prepared by Regional Assemblies in the 2000s to establish a region wide patterns of development, necessary infrastructure and consistent policies for broad areas across the UK reflecting their common interests, economic potential and general characteristics. Localised issues would then be addressed in Local Plans.
Registered Social Landlords	Independent housing organisations, including trusts, co-operatives and companies, registered under the Housing Act 1996.
Renewable Energy	In its widest definition, energy generated from sources which are non-finite or can be replenished. Includes solar power, wind energy, power generated from waste, biomass etc.
Retail Assessment / Town Centres Study	An assessment which may be required in connection with major retail purposes assessing the likely effect of the proposals on patterns of trades and the viability and vitality of existing retail centres.
Saved Policies	Plans and policies that were originally in the Local Plan but are still relevant in the current spatial environment and, therefore, remain current policy. They are included in Appendix 1 of this document.
Scheduled (Ancient) Monument	Ancient structure, usually unoccupied, above or below the ground, which is preserved by order of the Secretary of State.
Section 106 Agreements (S106)	Allows a Local Planning Authority to enter into a legally-binding agreement or planning obligation, with a land developer over a related issue (often to fund necessary improvements elsewhere).
Sequential Approach/Test	A planning principle that seeks to identify, allocate or develop certain types or locations of land before others.
Sequential Test (Flooding)	A test carried out in accordance with the National Planning Policy Framework to demonstrate that certain land is appropriate to develop as has less flood risk, after alternative sites have been ruled out.
Site of Special Scientific Interest (SSSI)	Site or area designated as being of national importance because of its wildlife plants or flower species and/or unusual or typical geological features. SSSIs are identified by Natural England and have protected status.
Site Allocations DPD	A Development Plan Document (part of the Local Plan) which allocations of sites for specific or mixed development uses, or which makes other designations of land for a particular purpose. Part II of the Mendip Local Plan will be a site allocations document.
Soundness	To be considered sound, a Development Plan Document must be justified (founded on robust and credible evidence and be the most appropriate strategy) and effective deliverable, flexible and able to be monitored).
Spatial Planning	Brings together and integrates policies for the development and use of land with other policies and programmes which influence the nature of places and how they function.
Spatial Strategy	A strategy which sets out the distribution and nature of development across a given area. Section 4 of this plan contains Mendip's spatial strategy.
Special Areas of Conservation (SAC)	Sites of European nature conservation importance designated under the Habitats Regulations.
Special Protection Area (SPA)	A site designated under the European Commission Directive on the Conservation of Wild Birds.
Species Action Plan (SAP)	A framework for conservation of particular species and their habitats.
Strategic Environmental Assessment	A term used to describe environmental assessment as applied to policies, plans and programmes. The European 'SEA Directive' (2001/42/EC) requires a formal 'environmental assessment of certain plans and

	programmes, including those in the field of planning and land use.’ In the UK this is achieved through the Sustainability Appraisal.
Strategic Flood Risk Assessment (SFRA)	Provides information about flood risk throughout the area of the Local Planning Authority (LPA), either individually or combined with neighbouring LPAs. The SFRA will consider the effects of climate change on river and coastal flooding, identify the risk from other sources of flooding, and consider appropriate policies for development in or adjacent to flood risk areas.
Strategic Housing Land Availability Assessment (SHLAA)	An assessment of land which is available for housing. The SHLAA does not allocate land for development but is a source of information to understand what is available when making choices about where new development should be located.
Strategic Housing Market Assessment (SHMA)	An assessment of housing need and demand within a housing market area.
Statement of Community Involvement (SCI)	Sets out the standards which authorities will achieve with regard to involving communities in the preparation of planning documents and development control decisions. Where one is not produced by the council, the council must involve the community and other interests in line with basic requirements defined regulations and legislation.
Supplementary Planning Document (SPD)	A locally adopted planning document that is prepared to give clarity and technical detail to a matter contained within the Local Plan. They can include technical guidance on a matter or set out how a development site will be laid out and serviced. SPD is subject to public consultation requirements defined in regulations and law, but are not subject to Independent Examination. All SPD must be linked to policies or proposals in a current part of the Local (Development) Plan. SPD were formerly known as Supplementary Planning Guidance (SPG).
Sustainability Appraisal	An appraisal of the economic, environmental and social effects of a plan undertaken throughout its preparation to enable understanding of different alternative solutions and to mitigate effects where a proposed development solution is recognised to have limited negative effects. Ultimately allows decisions to be made that deliver more sustainable form of development. Also see Strategic Environmental Appraisal.
Sustainable Community Strategy	A long-term vision for improving the quality of people’s lives, with the aim of improving economic, social and environmental well being of the area and contribute to the achievement of sustainable development.
Sustainable Development	Development which meets the needs of the present without compromising the ability of future generations to meet their own needs.
Sustainable Drainage System	Drainage system, generally incorporating natural methods of ground percolation, which seeks to minimise surface water run off without, or lessening the need for, extensive networks of municipal pipes. Systems can also include the use of natural filtration to capture and hold waterborne pollutants or suspended materials. Systems – termed ‘grey water’ systems - can also be found which recycle precipitation or other relatively clean water for non potable domestic or business uses.
Town Centre	The centre of larger market towns where there is a concentration of shops and other services which cater for local customers, including those from nearby settlements.
Transport Assessment	An assessment, which may be required in connection with major development proposals, which looks at how people are likely to access the development and its effects on travel patterns. It will also look at how any undesirable consequences can be mitigated. It should consider how access on foot, by cycle or public transport can be promoted and how access on foot, by cycle or public transport can be promoted and how demand for car parking can be minimised.
Use Classes Order	A statute that groups uses into various categories and which specifically states that permission is not required to change from one use to another within the same class: A1 -Shops;

	A2 - Financial and Professional Services; A3 - Restaurants and Cafes; A4 - Drinking Establishments; A5 - Hot Food Takeaway; B1 - Business; B2 - General Industrial; B8 - Storage and Distribution; C1 - Hotels; C2 - Residential Institution; C3 - Dwelling Houses; C4 - Houses in Multiple Occupation; D1 - Non- Residential Institutions; D2 - Assembly and Leisure. Sui Generis - Certain uses that do not fall within any use class such as theatres, petrol filling stations, launderettes and nightclubs.
Water Framework Directive	A European Directive that aims to establish a framework for the protection of inland surface waters (rivers and lakes), transitional waters (estuaries), coastal waters and groundwater.



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Report to Mendip District Council

by Robert Yuille MSc Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 2nd October 2014

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

REPORT ON THE EXAMINATION INTO MENDIP DISTRICT

LOCAL PLAN PART I: STRATEGY AND POLICIES

Document submitted for examination on 9 December 2013

Examination hearings held between 31 March and 14 April 2014

File Ref: PINS/Q3305/429/1

Non-Technical Summary

This report concludes that the Mendip District Local Plan Part I: Strategy and Policies (the Plan) provides an appropriate basis for the planning of the District providing a number of main modifications are made to it. Mendip District Council has specifically requested me to recommend any main modifications necessary to enable the Plan to be adopted.

The majority of the main modifications to address this were proposed by the Council but where necessary I have amended detailed wording and I have recommended their inclusion having considered the representations from other parties on these issues.

The Main Modifications can be summarised as follows:

- Revise the housing figures in the Plan to reflect an objective assessment of need, to express these figures as minima and to extend the end date of the Plan to 2029 (**MM24 & MM39**);
- Acknowledge the possibility that sites in Midsomer Norton and Radstock could be considered for allocation to meet Mendip's need for housing (**MM14, MM16, MM23 & MM26**);
- Re-classify villages where they have gained or lost services since the submission of the Plan (**MM17**);
- Make clear that Policy CP1 refers to the re-use of appropriate previously developed sites (**MM18**);
- Make clear that some greenfield sites may need to be allocated at Glastonbury in the future (**MM50**);
- Remove the Green Gap designation at Shepton Mallet and extend the boundaries of the Strategic Site and Future Growth Area (**MM63, MM64, MM65 & MM66**);
- Clarify the terms of the 'trigger clause' in Policy CP2. Make clear that the 'trigger clause' applies to the Future Growth Area in Wells (**MM29, MM31 & MM41**);
- Make clear that the phasing policy in Policy CP10 does not apply to the Future Growth Area in Wells (**MM71**);
- Make reference to the provision of self-build housing (**MM91**) and specialist housing (**MM92**);
- Make clear that a local occupancy requirement does not apply to all sites in the rural area but only to rural exception sites (**MM85 & MM90**);
- Delete the reference to 'about 1500sqm' in policy CP6 (**MM48**);
- Make clear that a larger proportion of Clarks Village's floorspace will be permitted to become food and drinks uses (**MM56 & MM59**);
- Delete reference to the proposals map in Policy DP8 (**MM77**);
- Include a policy relating to managing flood risk in the Plan (**MM98 to MM103**); and
- Make clear that land to the west of Kilver Street and to the north of Charlton Road is not safeguarded under the terms of policy DP18.

Introduction

1. This report contains my assessment of the Mendip District Local Plan Part 1: Strategy and Policies (the Plan) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) makes clear that to be sound, a Local Plan should be positively prepared; justified; effective and consistent with national policy.
2. The starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my examination is the submitted draft plan which is the same as the document published for consultation between 29 November 2012 and 24 January 2013.
3. My report deals with the main modifications that are needed to make the Plan sound and legally compliant and they are identified in bold in the report (**MM**). In accordance with section 20(7C) of the 2004 Act the Council requested that I should make any modifications needed to rectify matters that make the Plan unsound and thus incapable of being adopted. These main modifications are set out in the Appendix.
4. The main modifications that are necessary for soundness relate to matters that were discussed at the Examination hearings. Following these discussions, the Council prepared a schedule of proposed main modifications and carried out sustainability appraisal and this schedule has been subject to public consultation. I have taken account of the consultation responses in coming to my conclusions in this report and in this light I have made some amendments to the detailed wording of the main modifications. None of these amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal that has been undertaken.

Assessment of Duty to Co-operate

5. Section s20(5)(c) of the 2004 Act requires that I consider whether the Council has complied with any duty imposed on them by section 33A of the 2004 Act in relation to the Plan's preparation. The Council has set out the steps it has taken to comply with this duty in its Duty to Co-

operate Statement¹. Much of the discussion at the hearings concentrated on whether the Council had discharged this duty when considering the need for housing.

Assessment of Housing Needs.

6. In assessing its full housing needs the Council is required to prepare a Strategic Housing Market Assessment working with neighbouring authorities where housing market areas cross administrative boundaries². It was common ground at the hearings that commuting and migration patterns show that there are links between Mendip and neighbouring areas, particularly between the north eastern part of the district and parts of Bath and North East Somerset (B&NES) and Wiltshire. Arguably, therefore, Mendip could be regarded as being part of more than one housing market area and that these housing market areas cross administrative boundaries.
7. The question was raised as to whether the Council was correct to take the view that Mendip itself was tantamount to being a housing market area (a so called 'district only' housing market area) and to prepare its objective assessment of housing need on that basis, or whether it should have based its assessment of such needs on a wider area that crossed administrative boundaries – something that would have involved co-operation with neighbouring authorities.
8. However, it is significant that no neighbouring authorities are seeking such co-operation with Mendip. In particular, both B&NES and Wiltshire are preparing plans at present and, while the B&NES plan was not subject to the Duty to Cooperate, neither of the Inspectors examining these plans is pressing for the assessment of housing needs to be done jointly with Mendip - indeed the Inspector at the B&NES examination has accepted that it is reasonable for that Council to have undertaken a 'district only' Strategic Housing Market Assessment³.
9. Moreover, I take the view that the evidence on commuting patterns, on household movements and on journey to work indicates that while Mendip has links to surrounding areas it is, when taken as a whole, a fairly self-contained housing market area and as such forms an adequate basis for the preparation of a Strategic Housing Market Assessment⁴. It is reasonable, therefore, for the Council to take a pragmatic approach in regarding its administrative area as being tantamount to a housing market area and thus to rely on a 'district only'

¹ SD55. Statement on the Duty to Co-operate. October 2013.

² National Planning Policy Framework. Paragraph 159.

³ ED23 Inspector's conclusions on the geographic scope of the Strategic Housing Market Assessment. Paragraph 12.

⁴ SD92 Review of Housing Requirements. Paragraphs 1.15 – 1.27.

Strategic Housing Market Assessment for the purposes of determining housing need.

10. The alternative would be to require the Council to await the preparation of a joint Strategic Housing Market Assessment or to prepare such a document itself. Either approach would result in lengthy delays to the Plan. Such delay would run counter to the Government's principle that planning should be genuinely plan-led⁵. Such a delay would, therefore, require clear evidence that the cross boundary aspects of housing provision were being ignored or sidelined. This could, for example, take the form of evidence that the Council was ignoring requests to help meet the housing needs of its neighbours or disregarding suggestions that it was under providing for houses and hence requiring neighbouring Councils to make up the deficit.
11. In this instance such evidence does not exist. The Council has co-operated constructively, actively and on an ongoing basis with neighbouring authorities and has established that, at this time, none of these are seeking to meet any part of their housing needs in Mendip, that Mendip is not relying on neighbouring authorities to meet any part of its housing needs and that neighbouring authorities have no objection to the scale or location of housing growth proposed in the Plan⁶.
12. It is also important to note that the Council is not saying that it will continue to regard itself as a 'district only' housing market area in the future regardless of any evidence that may emerge. The Council is taking part in work on the emerging West of England Strategic Housing Market Assessment and if the latest migration and travel to work data indicate that it should continue to take part in this project it will do so. Similarly it is working with other authorities in Somerset in considering whether it would be possible or appropriate to update Strategic Housing Market Assessments individually or jointly⁷.
13. With all of these points in mind I am satisfied that the Council has discharged its duty to co-operate with neighbouring authorities in assessing its housing needs.

Hinkley Point Power Station

14. It was suggested that the possible effect of the Hinkley Point Power Station on housing and employment in Mendip was a cross boundary issue on which the Council should have co-operated more fully with neighbouring authorities. I do not agree. Although there is some

⁵ National Planning Policy Framework. First bullet point of paragraph 17.

⁶ SD55. Statement of Duty to Co-operate. Paragraphs 16, 22, 23 & 30.

⁷ ED30. Summary of Mendip District Council's co-operation regarding future Strategic Housing Market Assessments.

evidence that this development has the potential to create opportunities for the south west in general⁸ and for Mendip in particular⁹ the actual extent of these opportunities as far as Mendip is concerned is uncertain. Work carried out in connection with the Development Consent Order Application for Hinkley Point calls into question whether indeed this project would have a significant impact, particularly in terms of the number of workers living in Mendip¹⁰. The Council confirmed at the hearings, however, that this matter was not being forgotten and that it would continue to monitor the situation.

15. Given this assurance and given the current uncertainty as to the effect that Hinkley Point will have on Mendip in housing and employment terms, I do not consider that the Council could have done more to co-operate constructively or actively with neighbouring authorities .
16. For the reasons set out above I am satisfied that the Council has discharged its duty to co-operate

Assessment of Soundness

Preamble

17. The Plan is the first of two main parts of the overall Local Plan for Mendip. As its name implies the Plan itself deals with the overall spatial strategy for the district (including the identification of a number of Strategic Sites and Future Growth Areas) and with development policies. The Local Plan Part II: Allocations document will concentrate on allocating the additional sites necessary to meet development needs.

Main Issues

18. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified ten main issues upon which the soundness of the Plan depends. These are dealt with below.

Issue 1. Is the spatial strategy set out in the Plan sound?

⁸ ED27. LEP – Summary – Strategic Economic Plan 2014-2030. Page 3 for example. ED42. Press Release. Initial Agreement on New Nuclear Power Station at Hinkley. ED43. Job Opportunities at Hinkley Point C. ED44. Local Supply Chain Perspective.

⁹ ED68. Mendip Economic Development Strategy 2013 – 2016. Page 9, Section 3.3; and SD56. Housing Distribution Options. Paragraph 3.37; and SD71. Mendip Employment Land and Premises Study. Paragraph 4.5.4.

¹⁰ ED 24. Hinkley Point C Local Impact Report. Housing and Market Supply. Paragraph 4.4.1.35 and Figures 4.1 and 4.2; and ED25 Hinkley Point C Economic Strategy. Paragraph 5.6.28.

19. Broadly speaking the spatial strategy in the Plan is to direct development towards the principal settlements of Frome, Glastonbury, Shepton Mallet, Street and Wells, while in the rural areas it will be focussed on Primary and Secondary Villages. Emphasis is also laid on maximising the use of previously developed land and other sites within existing settlement limits and then at the most sustainable locations at the edges of settlements.
20. Three main criticisms were levelled at the spatial strategy set out in the Plan; these are that no consideration had been given to the alternative of developing at Radstock and Midsomer Norton; that the strategy takes a 'brownfield first' approach to the identification of housing land; and, that the level of housing provision proposed in the rural area was incorrect.

Radstock/Midsomer Norton.

21. The settlements of Radstock and Midsomer Norton are located just outside the boundary of the district with parts of their built up areas abutting or extending into it. They are comparable in size with the main towns in Mendip, they have a similar range of services and they have close functional links with settlements in the northern part of the district. In preparing the Plan the Council has not appraised the alternative of allocating a strategic site or sites at these settlements. It was suggested that it should have done so as, regardless of any quirks of the boundary, this would have been a sustainable location for growth and hence a reasonable alternative to explore.
22. However, planning for these settlements is primarily the responsibility of the local authority in which they are located (B&NES) and there is nothing to suggest in the emerging plan for that district that these settlements are seen as particularly sustainable locations for growth. Certainly the Council has not been requested to consider allocating housing land there to meet the needs of the neighbouring District. In such a situation, and given that the Council had various alternative ways of meeting its needs within its own boundaries, I, like the Council, do not consider that a reasonable alternative would have been to seek large scale, strategic allocations at Radstock and Midsomer Norton when these would appear to run counter to the approach being taken by B&NES. It would, to use the Council's phrase, be a case of 'the tail wagging the dog'. Since the hearing sessions, the B&NES Core Strategy has been adopted and confirms that there are no unmet housing needs in these towns that need to be accommodated in Mendip. References to the possibility of meeting such needs are, therefore, unjustified and hence unsound and should be deleted as is proposed in **MM16**.
23. What the Plan does not deal with, however, is whether such sites should be considered through the Local Plan Part II Allocations document as a way of meeting Mendip's own development needs. This is particularly relevant as, largely as a result of the decision to extend the end date of the Plan to 2029, the Local Plan Part II Allocations document will need to find sites for an additional 500 or so sites across the District. No substantial evidence has been put forward to suggest that sites on the edge of these towns should be ruled out as possible alternatives for such local, as opposed to strategic, allocations. However, such

allocations would need to be considered in conjunction with B&NES and local communities and arrangements would need to be made to deal with any impact they might have on infrastructure in B&NES. The Plan is therefore, unjustified, and hence unsound in this respect. The Council proposes to remedy this element of unsoundness by making specific reference to the role that these towns play in Mendip and to the possibility that sites on the edge of them will be considered for allocation in order to meet Mendip's housing needs. (**MM14, MM16, MM23 & MM26**).

24. No substantial evidence has been put forward which would justify going further than this and including a reference in Core Policy 1 which would commit the Council to directing some development towards Radstock and Midsomer Norton. Indeed, on a similar point, no substantial evidence has been put forward to support suggestions that the Council should specify in more detail where the additional 500 houses will go. On the basis of the information available I consider that the Council is correct to take the approach that it does in the Plan and simply state in general terms that these houses will be located in accordance with the Plan's spatial strategy as set out in Core Policy 1 and that this could include land adjacent to Radstock and Midsomer Norton.
25. I am satisfied, therefore, that there was no necessity for the Council to have fully appraised the alternative of allocating a strategic site or sites at Radstock or Midsomer Norton and that the Plan, as proposed to be modified, provides an adequate framework within which the possibility of allocating sites at these towns could be appraised in the future.

Brownfield First Approach

26. Core Policy 1(3) refers to maximising the appropriate re-use of previously developed sites and other land within existing settlement limits and then at the most sustainable locations on the edge of identified settlements. To my mind this clearly establishes that in allocating sites in the Local Plan Part II Allocations document preference will be given to sites, both brownfield and greenfield, within settlement limits. While, for monitoring purposes, the Plan seeks to achieve 60% of its housing supply on brownfield it remains the case that Core Policy 1 is not a policy that simply phases the release of brownfield sites ahead of greenfield sites.
27. Such an approach does not place an over reliance on small brownfield sites to deliver housing, rather it recognises that a number of such sites are being actively promoted through the Strategic Housing Land Availability Assessment. Nor would it necessarily lead to the loss of land needed for employment -a point discussed later in this report in relation to Glastonbury (paragraphs 146-148). The question of whether individual sites are suitable for development will be determined through the Local Plan Part II Allocations document which will look at these sites in detail and determine whether or not they are in sustainable locations. In this respect Core Policy 1(3) is misleading, and hence ineffective, in that it refers to the appropriate re-use of previously developed sites rather than the re-use of appropriate previously developed sites. The Council proposes to remedy this element of unsoundness by way of **MM18**.

28. It is important to bear in mind that, if it transpires that there are insufficient brownfield and greenfield sites within settlement limits to meet the remaining development needs of the District, then, through the Part II Local Plan Allocations document, the Council will allocate further sites on the edge of settlements.
29. In Glastonbury, for example, where this point was explored most fully, the town is heavily constrained and it is anticipated that completions, commitments and brownfield sites within settlement limits can deliver almost all the required housing. Consequently a Strategic Site at Glastonbury is not allocated in the Plan. However, the Council acknowledges that there are greenfield sites on the edge of Glastonbury which have development potential and it will consider allocating these in the Local Plan Part II Allocations document if insufficient sustainable sites can be found within the settlement.
30. This possibility is referred to in the Plan but it is stated that only a very small amount of greenfield land will be required. This statement is unjustified and hence unsound as it is not known at this time how much additional greenfield land will be needed. The Council proposes to remedy this by making clear that some greenfield land may need to be provided for at Glastonbury (**MM50**). With these points in mind I am satisfied, in general terms, that the Plan does not take a 'brownfield first' approach and that, in particular, there is no need to allocate a Strategic Housing Site in Glastonbury.

Housing Provision in Rural Area

31. As with any other area, the full projected need for housing in the rural area consists of locally arising need and the need arising from people wanting to move into the area. The Plan proposes the provision of 1780 houses in the rural area. This is less than the full projected need but more than the locally arising need. There were those who argued at the hearings that provision should be made in the rural area for its full projected needs – largely on the basis that it has historically been an important source of housing supply and there is a possibility that the 1780 figure will be met before the end of the plan period. Others interpret the historic rate of growth in the area differently. They point to the large number of planning permissions granted recently, many on appeal, which they consider have had a harmful effect on the character of the rural area. Consequently they consider that the proposed level of provision is too high.
32. The Council accepts that the rural area could take more growth but considers that the critical question is whether it should. In its view, while it is required to meet the objective assessment of need for the District as a whole – something it proposes to do – the question of how that figure is distributed is for local members and local people to determine having regard to the need to protect the intrinsic character of the rural area as well as the need to support and broaden the sustainability of rural settlements.
33. To my mind past growth rates in the rural area, which in recent years at least appear to have been influenced by the lack of an up to date plan and the lack of a five year supply of housing land, are, to an extent,

beside the point. The question to be addressed here is what is a suitable level of housing provision in the rural area over the plan period? I consider that in a rural area such as Mendip it is perfectly legitimate for the Council to adopt a strategy of concentrating development in the principal towns as these are the most sustainable locations for growth. This approach has not been seriously challenged through the examination.

34. Clearly, however, one implication of this strategy is that there will be less development in the rural area. In determining the level of growth in the rural area the Council has consulted extensively with local Parish Councils and while support for the chosen figure is not universal there is widespread public acceptance that the figure in the Plan strikes a reasonable balance between the need provide sufficient development to support rural settlements without causing unacceptable harm to their character. Insufficient evidence has been brought forward to warrant altering that figure.

Issue 2 – Should the housing numbers set out in the Plan be increased, decreased or remain the same?

Demographic Projections

35. The overall housing requirements set out in Core Policy 2 are based on demographic projections carried out by Dorset County Council¹¹. Following the publication of the National Planning Policy Framework, which seeks to significantly boost the supply of housing land and requires an objective assessment of housing need, the Council commissioned a Review of Housing Requirement¹² (the Review) which arrived at a housing requirement of some 500 or so above the previous figure. This increase is largely accounted for by the fact that the end date of the Plan has been changed from 2028 to 2029 in order that it would run for 15 years from its likely date of adoption.
36. It was this latter document (the Review) that the Council relied on as the basis of the housing numbers which it now proposes to include in the Plan by way of a number of main modifications and it was the robustness of this latter document that was the focus of discussion at the hearings.
37. These discussions were helped by the fact that the Council and representors had, at my instigation, previously held a Housing Technical Meeting the purpose of which was to identify points of agreement and disagreement on housing numbers and housing supply. The minutes of

¹¹ Documents SD63 to SD65.

¹² SD92. Review of Housing Requirements. November 2013.

this meeting¹³ formed a useful basis for discussions at the hearings.

38. The Review takes as its starting point the latest available household projections produced by the Department for Communities and Local Government and takes account of a full range of demographic data, including census data. This is a sensible approach which is consistent with government guidance and I see no strong reasons why it should either seek to update that information or use alternative sources such as the West Mendip Joint Needs Assessment - a document produced to inform decisions about public health. The Review produces what the Council regards as reasonable population and household projections which suggest a need for around 420 homes per annum between 2011 and 2029.
39. Such a projection inevitably involves a series of judgements and, given that the aim of government policy is to boost significantly the supply of housing, care has to be taken to ensure that these judgements do not, cumulatively, drive down the projected number of houses. In this instance I am satisfied that this is not the case and that the Council has credible reasons for the various judgements it has made.
40. For example, it was suggested that by projecting forward on the basis of the last five years migration data, rather than the last ten, the Council had ignored higher, pre-recession, trends. However, as the Council pointed out, using a five year period is fairly standard practice and using a 10 year period would not make a significant difference to the projection¹⁴.
41. Similarly, there was disagreement as to whether it was correct to assume, as is done in the Review, that a proportion of people over pensionable age (65 and over) should be included as economically active. To my mind this is a reasonable assumption as people do indeed work beyond retirement age and given improved health prospects and declining pension prospects it is fair to assume that this will continue. It is also relevant to note the point made by the Council that this factor does not have a direct effect on population or household projections, it only comes into play when an attempt is made to match jobs and housing - a point that will be returned to later.
42. The question of the appropriate assumptions to make about headship rates was also the subject of discussion. In the Review it is assumed that after 2021, headship rates will be somewhere between those in the 2011 DCLG Projections, which appear to project forward a trend of constraint, and the 2008 based figures which are largely unconstrained.

¹³ ED14. Housing Technical Meeting

¹⁴ ED33. Past Trends and Population Change.

However, while it is true that alternative assumptions could have been made – for example the 2008 based figures could have been applied post 2021 – it was established at the hearings that this would not have a significant effect on the projected housing figure.

43. Then we come to the arcane area of what is termed 'Unattributable Population Change' or UPC. The advice of the Office for National Statistics is that this should be excluded from projections but this appears to be largely based on its inability to process such information at a national level. At a local level, if it is assumed that data on births and deaths is reliable, then, in Mendip, it is most likely that UPC is accounted for by over or under recording of migration. It may be that, as is assumed in the Review, this accounts for 100% of UPC, it may be, as was suggested at the hearings, that this accounts for 50% of UPC – but once again the evidence is that this would not make a significant difference to the outcome of the projection¹⁵.
44. Overall, therefore, I take the Council's point that its demographically based figure of around 420 dwellings per annum has not been significantly challenged¹⁶. However, that is not the end of the story. There are a number of additional factors that need to be taken into account as they could warrant adjusting this demographic projection. These factors are employment growth, market signals and affordable housing need.

Employment Growth

45. If projected population growth and housing supply were to be out of step with projected job growth then there is a risk that unsustainable commuting patterns and a reduced resilience of local businesses could result. In preparing the Review use was made of the then most up to date Experian forecast of job growth. It was suggested that more up to date versions of that forecast, or indeed the Oxford Econometric forecast which the Council relied on in earlier work, should have been used. However, given that economic forecasts by their very nature are highly uncertain and can vary over time I do not consider that the Council can be criticised for taking a proportionate approach in making use of the then most recent evidence readily available to its consultants.
46. Moreover, in exploring the relationship between jobs and growth it is not possible to be precise; attempting to establish a perfect or direct link between jobs and homes is fraught with uncertainty, not least because changes in commuting patterns and economic activity rates can have a significant impact on the available workforce.

¹⁵ ED40. Addendum Note. 21 February 2014. Table 2.

¹⁶ ED45 Mendip District Council. Matter 3. Closing Statement. Paragraph 3.

47. It was common ground at the hearings that Mendip is recovering relatively rapidly from the recession and the number of jobs in the area is growing. However, bearing in mind the points made above, I do not consider that there is sufficient evidence to indicate that the mismatch between the projected numbers of houses and jobs in Mendip is so marked as to justify an increase in the housing provision proposed in the Plan.

Market Signals

48. Put briefly, representors at the hearings considered that increasing house prices and rents and worsening affordability (the ratio between price and income) were all market signals that point to increasing housing provision. Such market signals were not considered in the Review itself but were taken into account in the Housing Needs Assessment¹⁷ and further information was produced at the hearings¹⁸. Like the Council I consider that this latter information indicates that, in terms of prices, rents and affordability, trends in Mendip have broadly followed those seen across the county, the region and nationally. Moreover, overcrowding in Mendip is low and not increasing significantly.
49. These findings would, of course, vary according to the period covered and it is true that the period they cover includes a time in which more than the projected 420 dwellings a year were being built. Nonetheless, given the volatility of the information involved, these findings indicate that trends in Mendip sit fairly comfortably alongside county, regional and national trends and do not, therefore, justify an upward adjustment of the housing numbers that came out of the housing projection.
50. The Council was criticised at the hearings for focussing on comparing trends in Mendip with trends in other areas rather than focussing on whether it has a problem of, for example, affordability, in absolute terms. However, the Council does not dispute the affordability of housing is a major issue in the District and that the situation is worsening but points out that the same is true for much of Southern England¹⁹. Given that this is the case it is sensible to look at the district in its wider context, indeed this is the burden of much of the advice on this matter in the relevant planning guidance²⁰. While this guidance anticipates that there will be other ways of assessing market signals it does not specify what these are. The Council is, therefore, justified in focussing its attention on comparative trends.

¹⁷ SD98. Mendip Housing Needs Assessment March 2012.

¹⁸ ED36. Note on Market Signals

¹⁹ ED3. Mendip Local Plan. Paragraphs 2.25 and 4.37.

²⁰ Planning Practice Guidance. Housing and Economic Development Needs Assessments. Paragraphs 19 and 20.

51. Incidentally it was suggested that the planning guidance refers both to market signals and market indicators and that there is a distinction between the two. However there is no clear indication in the guidance as to what, if anything, that distinction is and I can see no great consequences that have flowed from the Council's pragmatic approach of treating the terms as if they were interchangeable.

Affordability

52. It was common ground that there is a substantial need for affordable housing in Mendip, something in the order of 838 dwellings per annum over a five year period or 735 dwellings per annum over the period to 2029. It was also agreed that the 30% affordable housing requirement contained in the Plan would not meet that need in full²¹.
53. The affordability of housing in Mendip is clearly a serious problem – one that the Plan goes so far as to describe as overwhelming²². However, the quantified need for affordable housing does not simply translate into an equivalent need for new homes.
54. The evidence is that, in numerical terms, the dwelling stock available to households in Mendip is broadly sufficient to meet the needs of those households. In other words, the market is operating in Mendip in such a way that, in numerical terms, it can provide sufficient housing for those who are unable to afford it²³. This is borne out by the fact that there is no evidence of significant levels of homelessness in the District or of people being 'exported' to other authorities in order to find housing.
55. It is true that in arriving at this judgement reliance is placed on the fact that people in need of affordable housing are currently living in private rented accommodation and this is not ideal. It was common ground at the hearings that the private rented sector does not represent affordable housing²⁴ and there are, moreover, questions about the suitability of such accommodation, what security of tenure it offers and indeed whether it will continue to be available in the future.
56. However, it must be recognised that the private rented sector does in practice make a significant contribution to meeting the need for affordable housing and the likelihood is that it will continue to do so to some degree in the foreseeable future²⁵. Moreover, while concerns about the suitability or reliability of the private rented sector have rightly prompted the Council to seek to provide affordable housing in

²¹ ED14. Housing Technical Meeting. Paragraphs 33 & 34.

²² ED3. Mendip Local Plan. Paragraph 6.97.

²³ SD92. Review of Housing Requirements. Paragraphs 2.66 and 2.67 and figure 2.22.

²⁴ ED14. Housing Technical Meeting. Paragraph 34.

²⁵ SD98 2011 Housing Needs Assessment. Paragraph 7.61

order to reduce reliance on that sector, such concerns are, to an extent, beside the point when it comes to looking at this matter in terms of the potential need to increase overall housing supply.

57. The reason for this is that many of the people in need of affordable housing are already in dwellings and if they were provided with affordable housing this would create vacant dwellings that could be occupied by somebody else. So providing affordable housing does not necessarily mean that there is a need for an overall increase in dwelling supply. In other words, in a District where the problem of affordability is not caused by a simple lack of housing, it does not follow that an increase in the total housing figure in the Plan is necessary to help deliver the required number of affordable homes.
58. I do not, therefore, consider that the problems of affordability in Mendip justify increasing the demographically derived figure for overall housing need.

Conclusions

59. For the reasons set out above I am satisfied that the figure of around 420 dwellings per annum which emerged from the demographic projection carried out in the Review is soundly based for the purposes of paragraph 47 of the Framework and that none of the factors (employment growth, market signals and affordability) discussed at the hearings provide sufficiently strong evidence to warrant increasing or decreasing that figure.
60. However, the housing figures that have emerged from the Review differ from those in the submitted Plan and the end date of the plan has been extended from 2028 to 2029. The earlier figures are, therefore, unjustified and hence unsound. This unsoundness would be remedied by including the later figures and the revised end date in the Plan as is proposed in **MM39**.
61. That said, it remains the case that population and household projections are not an exact science and it is noteworthy that the Review itself is careful to qualify any predicted housing figures by the use of the term 'in the region of' or the word 'around'²⁶. It is also the case that the aim of government policy is to seek to boost significantly the supply of housing. Moreover, there has been no substantial evidence put forward to suggest that constraints in Mendip are such that it could deliver no more than a maximum of 420 dwellings per annum.
62. With all these points in mind I consider that the Plan is unjustified and hence unsound in referring to precise housing figures. Such

²⁶ SD92. Review of Housing Requirements. Paragraphs 16 and 4.11 for example..

unsoundness would be remedied by referring to housing figures in the Plan as minima as proposed in **MM24**. This point is also covered by **MM39**.

Issue 3. Is the distribution of housing between various settlements in the District justified?

Background

63. Core Policy 2 allocates specific numbers of houses to the principal settlements in the District and to the Primary and Secondary villages as a whole. Tables 8 and 9 contain housing numbers for individual villages in these categories. A number of queries were raised about the robustness of the evidence supporting the proposed distribution of development and the appropriateness of that distribution.
64. Before dealing with these queries it is necessary to make one general point. It has already been determined when discussing Issue 2 that the housing numbers proposed in the Plan are soundly based. Similarly, when dealing with Issue 1 it was determined that the correct amount of development has been allocated to the rural area as a whole. It follows, therefore, that arguments that the amount of housing allocated to particular settlements should be increased simply because the total number of houses proposed in the Plan needs to be increased, have fallen by the wayside as have arguments that the amount of development in the rural area should be altered.

Rural Area

65. The proposed distribution of housing between various villages has been criticised as not focussing enough development on the largest villages, particularly Chilcompton, Coleford and Evercreech. However, in determining its policy towards the distribution of housing in the rural area the Council has gathered information on the level of services provided in various villages and canvassed local opinion about the ability of villages to accommodate growth. The overall aim of this exercise was to ensure that development would be located in the villages with the best key services and the best available public transport and that the level of development in each village would be appropriate to their existing scale and have regard to environmental constraints.
66. Consultations with parish councils revealed that there was a preference for development to be dispersed across as many villages as possible rather than simply being focussed on the Primary Villages, ie those villages having key services (these being a shop meeting a range of daily needs, a primary school and a community meeting place) and a 'journey to work' bus service. For that reason Secondary Villages (those having two out of the three key services identified above and a journey to work public transport link) were identified as being capable of taking lesser amounts of development.
67. The Council's consultations also revealed that as well as not wanting villages to receive disproportionate amounts of development, local people wanted some account to be taken of the amount of development that had taken place in individual villages in the recent past. In other words in villages, such as the three referred to above, which had seen

significant amounts of recent development, it was felt that time was needed to assimilate that development and that this concern should be reflected in the amount of development allocated to them. Moreover, and this was confirmed by parish councils represented at the hearings, local people were concerned that having determined the overall amount of development to take place in the rural area there would then be a free for all in which large sites would come forward on a first come first served basis.

68. Consequently the Council has, in Tables 8 and 9, given an indication of the levels of growth that will be acceptable in various villages. This figure, or dwelling requirement, equates to 15% of the existing housing stock in an individual village up to an upper limit of 70 dwellings in Primary Villages and 40 dwellings in Secondary Villages. So, for example, if it were calculated that 15% of the housing stock of a Primary Village amounted to 45 dwellings then the dwelling requirement would be 45 but if that figure were 120 then the requirement would be 70 – that being the upper limit. The same approach is taken in Secondary villages only with 40 dwellings as the upper limit.
69. This approach has been described as being arbitrary, as resulting in smaller villages cumulatively providing for more development than larger villages and as prejudging the site selection process which will take place in the Local Plan Part II Allocations document.
70. Certainly the 15% figure and the upper limit figures for Primary and Secondary villages have not been arrived at on any scientific basis. They are a result of judgements made in an attempt to address concerns raised by local people. The fact that the largest villages will not receive the largest share of growth in the future is a direct response to the concern of local people that these villages need time to assimilate the growth that they have experienced. As to the point about prejudging the site selection process, the Council stressed at the hearings that it was not its intention to use the housing requirements set out in Tables 8 and 9 to micromanage development in villages. In allocating sites in the Local Plan Part II Allocations document it will take a flexible approach and if, for example, the effective planning of a site would enable somewhat higher levels of development then this would not be resisted or if a particular parish wanted more development this would not be opposed.
71. It was also suggested that the approach taken by the Council only had regard to the social dimension of sustainability and neglected economic and environmental aspects. That is not the case. Regard was clearly had to environmental aspects such as the AONB and to economic factors such as the 'public transport' journey to work when assessing the capacity of villages to accommodate development.
72. The approach taken by the Council clearly involves a measure of judgement on which there is scope for disagreement. So, for example, it was suggested that Ditchat should be classified as a Secondary rather than a Primary village because it does not have a shop able to meet the daily needs of the village or an acceptable 'journey to work' bus service. However, the fact remains that it has a shop which does

provide for a range of such needs and it has a bus service that would allow some people to commute to and from work depending on their working hours. It does, therefore, meet the definition of a Primary Village.

73. It was made clear by a number of parish councils represented at the hearings that, by and large, the approach taken by the Council to the distribution of development had public support and had assuaged concerns that the public would not have a voice in this matter. With this in mind I am satisfied that the Council has taken a reasonable approach to the distribution of development in villages and that it is not required to allocate the majority of development to the Primary Villages in general or to the three largest of those villages in particular. However, a number of changes in the availability of services are known to have occurred since the submission of the Plan. To overcome any unsoundness in this respect the affected villages require re-classification as proposed in **MM17**. Wookey Hole has not been deleted from the list of Secondary Villages because it became clear after the Hearings that a shop had recently opened there. Undoubtedly there will be further such changes over time as villages gain or lose facilities and it is right, therefore, that their status be kept under review as indicated in paragraph 4.13 of the Plan.

Wells

74. Wells, with its cathedral, its historic town centre and its outstanding landscape setting, is a settlement of exceptional merit. However, it is a settlement in which housing is expensive and in which the numbers of jobs exceeds the number of people who can fill them. Consequently people move out of the City to lower cost housing areas while at the same time people (often the same people) are drawn into the City to fill jobs. As a result more people travel in to Wells to work than travel out.
75. In order to deal with these problems, and in particular to accommodate a greater share of the local workforce, it is proposed to build some 1,450 new homes in Wells over the plan period. While it is perfectly valid, in principle, to seek a better balance between homes and jobs such an approach does raise a number of questions which are dealt with below.

Are the Council's estimates of the number of jobs and workers in Wells robust?

76. Doubt was cast by some representors on the accuracy of the Council's estimates of likely future numbers of jobs and workers (economically active people) in Wells. It was suggested that neither of these estimates could be relied on and that there is no need to provide houses for jobs that would not come. However, the job numbers in the Plan are derived from economic projections (SD61 and SD62) and from

population and household projections discussed earlier in this report. While the results of these projections have to be treated with a degree of caution and while they will only ever produce a range of estimates (with the 'safer' projection being something in the order of 1,500 jobs²⁷), they are the best estimates available. A similar point can be made about the information on commuting which, while it is dated (it is based on 2001 Census information) is the best available.

77. A number of points were made by representors which in their view undermined the reliability of these estimates. It was pointed out, for example, that the latest census information indicates that a sizeable number of people in Wells commute out of the City to work ²⁸. However, the Council accepts that this is the case and will, in all likelihood, continue to be the case in the future. This does not detract from its concern that, on balance, the City experiences inward flows of commuters, in other words that more people live outside the City and commute in than live in the City and commute out.
78. Similarly, the Council accepts that household growth in Wells has historically been low and, if projected forward, these rates of growth would mean that it would provide only few new houses. However, that is not the approach the Council is taking. It is, as has already been established, seeking to achieve a better balance between housing and jobs and this involves increasing the number of houses proposed. It was also stated in evidence that there are more workers than jobs in Wells but no substantial evidence was brought forward to substantiate this claim. To my mind none of these points undermine the Council's position to any significant degree.
79. It became apparent at the hearings that there were a number of misconceptions about the approach proposed by the Council in seeking a better balance between housing and jobs. It is not the case, for example, that the Council is simply relying on the allocated employment sites in the Plan to provide all of the predicted jobs. Wells has a thriving local economy which, it is estimated, will generate more jobs. Similarly, it is not the case that recent job losses in Wells have been ignored by the Council²⁹.
80. Nor is it the case that, when comparing the number of jobs with the number of workers in Wells, the Council has failed to compare like with like. It was suggested that the latter figure deals only with Wells while the former drew in additional jobs from the surrounding parish. This is not entirely true. Account has only been taken of those jobs in the

²⁷ SD61. Economic Projections Technical Paper Update. Paragraph 5.25

²⁸ ED55. Distance Travelled to Work Data – Wells.

²⁹ SD61. Economic Projections Technical Paper Update. Paragraph 5.25

surrounding parish which adjoin Wells - other jobs in that parish have been excluded from the final estimate³⁰. I see no reason why taking account of jobs which adjoin Wells should produce a significantly inaccurate or distorted result.

81. Taking into account the points discussed above I do not consider that any fundamental flaws have been identified in the approach taken by the Council in estimating the numbers of jobs and workers in Wells and I consider that the estimates they rely on provide a more robust basis for the planning of the City than any alternative figures put forward.

Would the number of houses proposed in Wells secure a suitable balance between the number of jobs and the number of workers in the city?

82. There were those at the hearings who considered that less houses would be needed in Wells to provide a suitable balance between jobs and workers largely on the grounds that the Council's information on jobs and workers was not reliable. They considered that the number of houses to be provided in Wells should be reduced to 1,000. I have set out above the reasons why I consider the Council's information on these matters to be reasonably robust. It follows, therefore, that I do not consider that the number of houses proposed in the Plan for Wells need be reduced.
83. Others at the hearings argued that, in order to balance jobs and workers in Wells, more houses would be needed. However, while the Council is seeking to improve the balance between these factors it has to do so in the context that development in Wells is constrained by, amongst other things, the presence of the AONB, of a Listed Historic Park and Garden and of a sewage odour zone which, taken together, effectively rule out the development of large parts of the city's periphery. It is also significant that no alternative strategic sites have been promoted by others through the Local Plan. Given these factors I am satisfied that the number of houses proposed in Wells need not be increased.
84. I consider, therefore, that the number of houses proposed in Wells would, given the constrained nature of the city, secure a suitable balance between the number of houses and the number of jobs.

In allocating housing land in Wells has sufficient account been taken of brownfield sites?

85. The Council has taken account of brownfield sites where these are either deliverable or developable³¹, indeed such sites make up a significant

³⁰ SD56. Technical Paper update –Housing Distribution Options. Table 6, page 41.

³¹ The terms 'deliverable' and 'developable' are defined in the footnotes to paragraph 47 of the National Planning Policy Framework.

proportion of the existing supply of houses in Wells. However, there are a number of brownfield sites in the city that at present fall into neither category. For example land at St Cuthbert's Mill will be a challenging site to develop, at the time of the hearings there was no clear timetable as to when it would be developed or any firm estimate of the number of houses it could yield. Other sites, such as the Tincknells site, have not been promoted for housing by their owners.

86. Because of the uncertainties associated with such sites I consider that the Council is right not to rely on them as part of the housing supply for Wells. This is not to say that, in time, these will not be developed for housing as windfall sites, but they cannot be relied on at present. I agree with the Council, therefore, that the housing needs of Wells cannot be met solely on brownfield sites but consider that such sites have been taken into account where appropriate.

Is the proposed allocation of a Strategic Site and a Future Growth Area to the west of Wells soundly based?

87. The land to the west of Wells proposed for allocation in the Plan is divided into two parts, a northern development area which is allocated as a Strategic Site and a southern development area which is allocated as a Future Growth Area. The Council has already resolved to grant planning permission for housing on the northern development area subject to the signing of a section 106 agreement. To all intents and purposes, therefore, the principle of developing this land has been established. It is also the case, as has already been referred to, that the development of many sites on the edge of Wells is ruled out by existing constraints, particularly landscape constraints.
88. In landscape terms I share the Council's view that, taken as a whole, the land to the west of Wells has the greatest potential for development³². The land is relatively low lying and contained by higher land to the north and south and by a pattern of thick hedgerows and trees. That said the development of this area will have some adverse effect on the landscape when seen, for example, from higher ground to the north³³ but the site relates well to the existing urban edge and with the substantial area of green space proposed on its western and southern sides, it would not compromise the appearance of any approaches to the City. This together with the fact that there is no noticeable visual connection between this land and the historic core of the city means that its development need not compromise the tourist potential of Wells.
89. Part of the southern development area is in Flood Zone 3 but there is nothing to suggest that this would rule out the development of the site

³² SD83. Strategic Landscape Appraisal of the Main Towns. Paragraph 2.14.

³³ ED53. Photomontage.

as a whole. Given the amount of green space proposed, including the retention of hedgerows, the ecological value of the site, particularly as a foraging area for horseshoe bats, could be safeguarded. The most recent information available³⁴ indicates that there are no objection in principle to this site on highway grounds and while the gradient, the distance and the presence of an inconveniently designed gate may deter some wishing to walk or cycle between the site and the town centre the fact remains that the opportunity to do so exists. Moreover, buses stop close to the site and while they may not offer a frequent service they would offer another form of sustainable transport for any future occupants of this land.

90. There is no substantial evidence to suggest that the development of this land would have an unacceptably harmful effect on Secondary School provision, on parking or on the Health Centre in Wells or that it would involve the loss of best and most versatile agricultural land.
91. Clearly in Wells difficult decisions have to be made not only in response to Council's aim of balancing jobs and workers in the city but also in response to the national policy of boosting significantly the supply of housing land. Having considered the evidence set out above I am satisfied that the decision to allocate a Strategic Site and a Future Growth Area on land to the west of Wells is soundly based.

Radstock/Midsomer Norton

92. For the reasons set out earlier in this report (paragraphs 21 to 25) I conclude that sufficient consideration has been given to allocating land in the north east of the district in the vicinity of Radstock and Midsomer Norton.

Street

93. It was suggested that the amount of housing proposed at Street should be increased because the figure put forward was not the result of an objective assessment of housing need and did not take proper account of factors such as the poor affordability of houses in the town, the need for affordable housing, the imbalance between housing and jobs, the potential influence of Hinkley Point and the high quality of existing shopping and other facilities. However, the term objective assessment of need applies to the question of how much housing should be allocated across the district as a whole and not to how that figure should be divided up between individual settlements.
94. Moreover, for reasons discussed above, the need for affordable housing does not necessarily translate into a need for houses on the ground (paragraph 57). Also set out above (paragraph 14) are the reasons why

³⁴ ED49. Somerset CC Highways Comments on Strategic Sites.

I consider the potential effect of Hinkley Point has been taken into account as far as it is practicable to do so. As to the balance between housing and jobs, the amount of housing proposed does seek to improve this balance. While it is true that the town is relatively well provided with shopping and other facilities there is nothing to suggest that the proposed level of housing provision is significantly out of step with this. Street has something like 10% of the existing houses in the District and would accommodate approximately 14% of the proposed new houses. There is, therefore, insufficient evidence to warrant increasing the amount of housing proposed at Street, particularly when it is borne in mind that this is a minimum figure.

95. Alternatively it was suggested that the amount of housing in Street should be reduced. The argument in favour of this was that the Plan seeks to coordinate development in Street and Glastonbury – the reason being that opportunities for development in Glastonbury are seen by the Council as being constrained. In effect, it is argued, the housing figure for Street has been boosted to take account of the needs of Glastonbury. Representors consider that there are opportunities for sustainable development at Glastonbury so the figure for Street could be reduced.
96. However, the housing numbers set out in the Plan are minimum figures. When it prepares the subsequent Part II Local Plan Allocations document the Council will be exploring opportunities to deliver housing numbers above that minimum figure. In other words if it is determined that there are sustainable sites at Glastonbury they could be allocated in that plan without the need to reduce the housing figures for Street. A similar point is dealt with subsequently in this report (paragraph 99).

Shepton Mallet

97. It was suggested that with the proposed housing allocations at Shepton Mallet the town would have a greater proportion of development on greenfield sites and less on brownfield sites than any other town in Mendip. However, as was made clear at the hearings, it is not the Council's intention to achieve a particular balance between greenfield and brownfield sites in individual settlements. Housing sites have been allocated on the basis of their availability and suitability. To this extent, therefore, the proportion of development on greenfield and brownfield land in particular settlements is of little significance.
98. It was also suggested that as Shepton Mallet's housing provision is related to the number of jobs to be created at the Bath and West Showground site, then housing provided at Evercreech and Prestleigh, villages which are somewhat closer to the showground site than is Shepton Mallet and which could also provide houses for workers at the showground site, should count towards the total number of houses provided in the town. However, such an approach would ignore the fact that Shepton Mallet, with its level of shops, services and public transport, is the most sustainable location for growth in the locality and consequently it is towards the town that the majority of housing should be directed. The fact that Evercreech and Priestleigh have in the past had a number of planning permissions granted in them, for whatever reason, does not justify reducing the housing allocation in the town.

Glastonbury

99. The question of whether a Strategic Site should be allocated at Glastonbury has been touched on earlier in this report (paragraphs 29-30). For the reasons set out there the Council has chosen not to do this. The Council does not dispute, however, that there are greenfield sites on the edge of Glastonbury that have the potential for development. An example of this is the site at Common Moor, the development potential of which is recognised both in the most up to date landscape appraisal and in the Strategic Housing Land Availability Assessment³⁵.
100. This site, and others, will be considered for allocation in the Part II Local Plan Allocations document. This appears to me to be a reasonable approach. The strategy in the Plan is to look first at sites within the settlement limits of Glastonbury and if these do not provide the required number of houses to allocate additional sites - of which the site at Common Moor could be one. I have already concluded (paragraph 29) that such an approach does not place an undue reliance on brownfield sites. I see no compelling evidence to indicate that it would imperil the viability of any schools in the town and for reasons set out subsequently in this report (paragraphs 146 - 148) I do not consider it need necessarily lead to an imbalance between housing and employment.

The additional 500 houses.

101. The point is made earlier in this report (paragraphs 23 and 24) that the decision to extend the end date of the Plan means that the Part II Local Plan Allocations document will need to find sites for an additional 500 or so houses. Various proposals as to how these houses could be distributed have been put forward by representors. However there is no substantial evidence at this time to indicate that these houses should be directed towards one or another location. The approach taken in the Plan, which is to indicate that these houses will be distributed in accordance with the Plan's spatial strategy, is, therefore, sound.

Issue 4. Are the Strategic Housing Sites and Future Growth Areas in the Plan soundly based?

General

102. The Plan gives a clear indication of what and how much development is expected to take place on the various Strategic Housing Sites, the latter information having been derived from the Strategic Housing Land Availability Assessment. The Policies Map indicates precisely where these sites are. As part of the identification of these sites the question

³⁵ SD83. Strategic Landscape Appraisal of the Main Towns. Paragraphs 2.17 and 2.18. Site GLAS010 as appraised in the Strategic Housing Land Availability Assessment.

of what infrastructure they would require has been examined³⁶, no infrastructure provider has identified any major problems or required additional viability studies. I consider, therefore, that there is a reasonable prospect that the infrastructure necessary for these sites will be delivered. None of these sites are the subject of phasing restrictions, resolutions have been passed to grant planning permission on a number of them with master planning work due to commence on others³⁷. The Plan does, therefore, provide a framework within which planning applications relating to these sites could be determined with a high degree of predictability and efficiency.

North East

103. For the reasons set out earlier in this report (paragraphs 21 to 25) I conclude that sufficient consideration has been given to allocating land in the north east of the district in the vicinity of Radstock and Midsomer Norton.

Shepton Mallet

104. Land to the south of Shepton Mallet at Cannards Grave Road is allocated in the Plan as a Strategic Site and Future Growth Area. There is evidence that a spring on the site has caused flooding on occasions in the past. However, the site's owners confirmed at the hearings that, as part of the Master Planning exercise, a comprehensive flood risk analysis would be carried out the aim of which would be to reduce the existing 'greenfield' surface water run-off rate. Moreover the Environment Agency has identified no insurmountable problems which would prevent the development of the site on these grounds.
105. The site contains productive farmland but this is not classified as being best and most versatile agricultural land and is not debarred from development for this reason. The highway authority has confirmed that, while obtaining access to the site is not without its difficulties, there are potentially acceptable solutions to this problem³⁸. The site has an attractive rural appearance but Shepton Mallet has been identified as the least constrained town in the District in landscape terms. Moreover, the site at Cannards Grave Road is identified as being suitable for development as long as it respects the ridge that runs along Ridge Lane and a strong strategic framework of planting is provided to create a well-defined southern limit to the town³⁹. Having visited the site and looked at and across it from surrounding roads I share these judgements.

³⁶ SD102. Infrastructure and Development Plan.

³⁷ ED34. Update to Housing Supply Paper SD93. Appendix 2.

³⁸ ED49. Highway Authority's comments on Strategic Development Sites.

³⁹ SD83. Strategic Landscape Appraisal of the Main Towns. Paragraphs 2.29, 2.31 & 2.33.

106. Clearly the Master Planning exercise will be critical in ensuring that strategic landscape planting is provided along with substantial areas of open space as well as resolving problems of drainage and access. However, this exercise is at an early stage and it is too early to say, for example, exactly where the open space should be located and which part of the site will accommodate the Mid Somerset Show. In the Plan, however, the northern part of the site known as the Showground Field is shown as a Green Gap. The Council now acknowledges that, while the intention is that this area should remain broadly open in nature, it does not have the information to say that it should be a Green Gap and that to do so would have the effect of pre-judging the design and layout of the scheme on the basis of inadequate information. This element of the plan is, therefore, unjustified and hence unsound. This element of unsoundness would be remedied by deleting reference to the Green Gap designation as proposed in **MM63, MM64, MM65 and MM66**.
107. As shown in the Plan the boundaries of the Strategic Allocation do not extend as far as Ridge Lane to the south or Compton Road to the west. At the hearings the Council accepted that it would be more logical if the site was defined by these clear physical boundaries, particularly if this assisted in ensuring that the proposed uses on the site were accommodated in a comprehensive and well designed manner. It stressed that this enlargement of the site would not necessarily lead to an increase in the scale of development envisaged. The boundaries of the site shown in the Plan are not, therefore, justified and this aspect of the Plan is therefore unsound. This unsoundness would be remedied by altering the boundaries of the site as proposed in **MM66 and MM121**.

Street

108. Land to the south of the A39 is allocated in the Plan as a Strategic Site and a Future Growth Area. This area is close to existing facilities in Street and in landscape terms it has been assessed as being the location most suitable for development as it relates closely to the settlement edge and benefits from the containment of local topography.⁴⁰
109. Clearly it is important to avoid closing the narrow gap between the village of Walton and Street and it is for that reason that the Plan proposes the retention of a Green Gap on land immediately to the south of the A39. It is suggested by the owner of part of this Green Gap that this designation should be deleted and the land included within a single comprehensive development area. Having visited the site I consider this proposal would be undesirable as it would run the risk of compromising the setting of both Walton and Street by eroding what remains of the gap between them.

⁴⁰ SD83. Strategic Landscape Appraisal of the Main Towns. Paragraph 2.27.

110. One benefit that the Council sees in allocating this overall area for housing is that it is large enough to support the provision of necessary infrastructure such as sewer improvements, open space provision, a spine road and a new primary school. However, the provision of this infrastructure is in a very early stage of planning and nothing has been confirmed at this stage – in this sense it has a high delivery risk attached to it.⁴¹ However, this is not to say that such infrastructure cannot be delivered, merely that detailed work needs to be done.
111. The Council confirmed at the hearings that, while the Strategic Site and the Future Growth Area are not in the control of a builder or developer they are in the control of a single landowning family which has promoted them through the Strategic Housing Land Availability Assessment and who supports the general principles of the proposed development.⁴²
112. The highway authority has confirmed that this land could be accessed from more than one point although it clearly favours at least one access being direct onto the A39.⁴³ Such an access would run through the proposed Green Gap, at least part of which is not controlled by the owner of the Strategic Site and Future Growth Area. However, the only representation received from a landowner within the Green Gap supports the general principle of expanding Street in this area.⁴⁴
113. Consultations with the Education Authority have not revealed major concerns about the ability of existing and proposed schools to cope with the proposed increase in population and there is no firm evidence to indicate that the decision not to proceed with the relocation of Crispin School and the expansion of Strode College has altered this position.
114. There is, in other words, no substantial evidence to indicate that the Council's discussions with infrastructure and service providers have revealed any insurmountable problems which would seriously undermine the viability of developing the Strategic Site or the Future Growth Area. There is insufficient justification at this stage, therefore, to warrant designating another site in Street as a contingency measure should, for whatever reason, the allocated land not come forward. Nonetheless, much remains to be done in sorting out the detail of how this land will be developed and rapid progress will need to be made as the Plan is largely reliant on the Strategic Site coming forward in the near future if houses are to be provided in Street from 2018 onwards at the

⁴¹ SD102. Infrastructure and Delivery Plan. Page 30.

⁴² WR/06 Written Representation from Mr Richard Clark.

⁴³ ED49. Highway Authority's comments on Strategic Development Sites.

⁴⁴ 12/1600. Representation by Mrs S J Wilton and Miss S Ball.

anticipated rate.⁴⁵ This is something the Council will of course monitor and, if the land does not come forward at the anticipated rate, will need to respond to in the Part II Local Plan Allocations document.

Frome

115. It was suggested that the Future Growth Area proposed at the Mount, should be allocated as a Strategic Site in order to guarantee housing supply over the plan period. However, such an approach would underestimate the importance of two factors. Firstly, Policy CP2 of the Plan contains a 'trigger' clause which would allow for the release of the Future Growth Area either through the Part II Local Plan Allocations document; or where the Council determines that the rate or volume of housing provision in the town should be increased; or where the release of land is needed to contribute to a better pattern of development.

116. Secondly, the Strategic Housing Land Availability Assessment indicates that there is a significant supply of deliverable or developable housing sites outside the development limits of Frome⁴⁶ and the likelihood is that at least some of these will be allocated in the Part II Local Plan Allocations document. In other words there is considerable flexibility built into the process. With these points in mind I do not consider that there is sufficient evidence to indicate that the Council is, in effect, planning for a shortfall in housing provision in Frome and that the Future Growth Area there should be allocated as a Strategic Site.

Wells

117. The background to and suitability of the allocated housing sites in Wells is discussed earlier in this report (paragraphs 74 to 91) where it is concluded, amongst other things, that the proposal to allocate a Strategic Site and Future Growth Area to the west of the City is soundly based. The question of whether the Future Growth Area at Wells should be subject to a phasing policy is dealt with subsequently in the report and for the reasons set out there (paragraphs 128 - 132) it is concluded that it should not.

118. This leaves the question of whether this Future Growth Area should be allocated as a Strategic Site. As with the similar suggestion in Frome, (paragraphs 115 - 116) this underestimates the flexibility built into the Plan – particularly, in this instance, by the 'trigger' clause in Policy CP2 described above. In the submitted version of the Plan this clause did not apply to the Future Growth Area in Wells but the Council has accepted that this is unjustified and proposes to remedy this by making clear that the 'trigger clause' does apply to this site (**MM29, MM31 & MM41**). Concern was expressed that the trigger clause contains too

⁴⁵ ED58. Ninesquare Trust –Statement Addendum Matter 6.

⁴⁶ SD97. Strategic Housing Land Availability Assessment. Page 12

many caveats in that it states that Future Growth Areas will be released 'where necessary' and elsewhere in the Plan it is stated that they 'may' be released. However, such caveats are not unreasonable. The intention of the trigger clause is to give flexibility not to prejudge future decisions. Although the release of some FGAs is highly likely, and the evidence indicates that the Wells Future Growth Area falls into that category, it may be that the release of the Future Growth Areas as a whole in their entirety will not be needed in the plan period. In the interests of consistency these caveats should apply to all Future Growth Areas. With this in mind I do not consider that there is sufficient evidence to indicate that it is necessary for the Future Growth Area at Wells to be allocated as a Strategic Site.

Issue 5 – Does the Plan make provision for an adequate supply of housing land?

119. The Council confirmed at the hearings that it was not, at that time, able to demonstrate a 5 year supply of housing land (it had a 4.5 year supply) but it anticipated that it would shortly be in a position to do so – principally because it was confident that it would be able to take into account a number of sites where it had resolved to grant planning permission subject to the signing of a section 106 agreement. This gave rise to a number of questions about how the Council had calculated its 5 year supply of housing land. These will be dealt with below.

Past Housing Supply

120. In considering whether there has been an over or under supply of housing in Mendip in the past it is necessary to establish the relevant target against which this should be judged. The Council uses the figure of 415 dwellings per annum derived from the Draft Regional Spatial Strategy – a figure that is very similar to the equivalent figure of 420 dwellings per annum derived from the Council's objective assessment of housing need. While I acknowledge that the figure of 415 dwellings per annum does not itself derive from an objective assessment of housing need, it was at the time the most recent figure for housing requirements that had been tested at examination. With these points in mind I consider that it is reasonable for the Council to judge its past performance in delivering housing against the then current target. Judged against this target there has been a modest over-supply of housing (411 dwellings) in the period 2006-2011.

121. It was suggested that as the Council's objective assessment of housing need is based on projections with a base date of 2011 they take account of this earlier over-supply which should not, therefore, be carried over into the post 2011 period as this would result in an under-provision of

houses over the life of the Plan⁴⁷. However, any arithmetic under-provision that may result would be relatively small when spread over the remaining years of the Plan and would be counterbalanced by the fact that the housing trajectory does not include any allowance for windfalls⁴⁸. I do not, therefore, consider that the Council's approach to the past over-provision is unreasonable.

The Buffer

122. The Council has calculated its housing supply figures on the basis that it needs to provide a 5 year supply of deliverable sites plus a 5% buffer. It was suggested that this buffer should be increased to 20% on the basis that the Council had consistently underprovided for affordable housing. However, this was not supported by reference to any national statement of policy or guidance which would suggest that the overall housing delivery figure should be split between affordable housing and other housing. The general tenor of that policy and guidance relates to the overall delivery of housing and in those terms the Council has, as has already been established, a record of modest over-supply and not under-delivery. It follows, therefore, that the Council is justified in using the 5% buffer in making its housing land supply calculations.

Strategic Housing Land Availability Assessment

123. The Strategic Housing Land Availability Assessment is an important piece of evidence in the calculation of housing land supply. While the methodology on which the Council's Strategic Housing Land Availability Assessment⁴⁹ is based was not challenged at the hearings the question was raised as to why full details relating to it were not made available earlier. This is not a matter for me to deal with. On the evidence available to me I am satisfied that the Strategic Housing Land Availability assessment is a reliable piece of evidence.

Housing Trajectory

124. The housing trajectory⁵⁰ shows the estimated supply of market and affordable housing from 2013 onwards on a year by year basis for various settlements and categories of village as well as for the District as a whole. This shows a cumulative shortfall in housing provision since 2006 on a district wide basis (8765 dwellings as compared with a target of 9635); it shows a shortfall in certain settlements (for example it is anticipated that in Wells 832 dwellings will be provided from 2013 onwards which when added to the 206 completions over the period 2006-2013 gives a total of 1038 dwellings, which is 412 dwellings short of the target for Wells of 1450); and it illustrates how heavily dependent

⁴⁷ ED57. Clarification on Market and Affordable Housing.

⁴⁸ ED73. MDC Response to ED57.

⁴⁹ SD97. Strategic Housing Land Availability Assessment Roll Forward March 2013.

⁵⁰ ED34. Housing Technical Meeting. Update to Housing Land Supply Paper. Appendix 1.

other settlements are on the Strategic Sites allocated in the Plan coming forward quickly if they are to meet their targets.

125. These factors prompted some representors to argue that Future Growth Areas in settlements such as Wells and Frome should be allocated as Strategic Sites and that additional Strategic Sites should be allocated in settlements such as Street and Glastonbury. However, to allude to a point made earlier in this report (paragraph 115), the Plan contains a 'trigger' clause in Policy CP2 which would allow for the early release of Future Growth Areas where this is warranted. Secondly the Strategic Housing Land Availability Assessment indicates that there is a supply of deliverable or developable sites across the district which have the prospect of being allocated in the Part II Local Plan Allocations document.

126. According to the Local Development Scheme it is the Council's intention to adopt the Part II Local Plan Allocations in mid-2016. Given that the shortfalls referred to above will manifest themselves towards the end of the plan period such a timetable would allow ample time for additional sites to be brought forward. It is of course the case that timetables are not always met. However, if slippage occurred it would still be open to the Council to use the 'trigger' clause insofar as the Future Growth areas are concerned. With these points in mind I am satisfied that it is appropriate for the shortfall in provision identified in the housing trajectory to be dealt with through the Part II Local Plan Allocations document, or, if necessary, through the operation of the 'trigger' clause.

Section 106 Sites

127. At the hearings the Council provided details of a number of sites on which it has resolved to grant planning permission subject to the signing of a section 106 agreement⁵¹. None of these sites were included in its then current 5 year housing supply figures but it was confident that some of them would be in the future and if this happened it would be taken account of through the annual update of the housing supply figures. This position was not disputed at the hearings. On that basis I am satisfied that there is a reasonable prospect of the Council being able to demonstrate a 5 year supply of housing land in the future.

Phasing at Wells

128. Policy CP10 contains what has been described as a phasing policy for Wells. The gist of this is that the Future Growth Area proposed on the southern portion of the land to the west of Wells will be released for development in the Part II Local Plan Allocations document - unless deliverable alternative sites emerge, in which case it would be retained for a subsequent review. In other words the Plan, on the one hand,

⁵¹ ED34. Housing Technical Meeting. Update to Housing Land Supply Paper. Appendix 2.

identifies this land as a Future Growth Area with the prospect of development taking place in the foreseeable future while on the other hand it leaves open the prospect that the development of this land will be deferred. Such an element of ambiguity sits uneasily alongside the Plan's purpose of providing a degree of certainty as to where and when development will take place.

129. The Council points out that there have been a large number of objections to this Future Growth Area but the same is true for the adjoining Strategic Site where it has resolved to grant planning permission. Moreover, while there are a number of issues that have yet to be resolved in relation to this Future Growth Area, the Council made clear at the hearings that it regards this site as being developable in the sense that it is in a suitable location for housing; it is controlled by national house builders and there is thus a reasonable prospect of it being available; and that it could be viably developed.
130. While it is true that Wells has a healthy housing land supply position at present the fact remains that more housing land needs to be identified and the Council has confirmed that no other green field Strategic Sites have been promoted through the Plan and that, as matters stand at present, it does not consider that it can rely on brownfield sites to fill that need. That being so there are no obvious candidates to replace this Future Growth Area.
131. It is true that a number of developable brownfield sites, and indeed green field sites, may come forward in time but the same is true for other towns in the District which have Future Growth Areas and these are not subject to the same 'wait and see' caveat as is the Future Growth Area in Wells.
132. I consider, therefore, that the phasing policy for Wells is unjustified. In this respect the Plan is unsound. This element of unsoundness would be remedied by the deletion of the relevant part of Policy CP10 as is proposed in **MM71**.

Issue 6 - Affordable Housing

Tenure

133. There are three recognised tenure types of affordable housing, these being Social Rent, Affordable Rent and Intermediate housing. However, the Council's evidence indicates that while the Affordable Rented product (if it is assumed that this were priced at 80% of market rent) could be suitable for some, it is not a realistic option for most households in housing need in the district⁵². That being so it is

⁵² SD98. Housing Needs Assessment. Paragraphs 7.82 and 7.83.

reasonable for Policy DP11 to, in effect, express a preference for Social Rented housing by stating that the initial basis for negotiations will be that 80% Social Rent and 20% Intermediate housing will be provided. I consider that such an approach takes adequate account of the possibility that the Affordable Rent product could act as a proxy for Social Rented housing.

Delivery of Affordable Housing

134. Historically there has been an under provision of affordable housing in the district⁵³. This raised the question as to whether this amounts to a persistent under delivery of housing that would warrant including a 20% buffer in the calculation of the 5 year supply of housing land. For the reasons set out earlier in this report (paragraph 122) I am satisfied that the concept of under delivery relates to housing provision as a whole and the Council has a record of modest overprovision in this respect. There is no justification for breaking this down into the provision of market and affordable housing. The historical under provision of affordable housing has no bearing, therefore, on the size of the buffer to be included in the 5 year supply calculation.

Self Build Housing

135. The Council acknowledged that the Government wants to enable more people to build their own homes and, while it has yet to carry out any surveys of demand or compile a register, this is something that should be dealt with specifically in the Plan. At present the Plan does not do this and is thus ineffective and unsound. This unsoundness would be remedied by including a reference in the text of the Plan to self-build housing and to keeping under review ways of supporting such development as is proposed in **MM91**.

Specialist Housing

136. The Council accepted at the hearings that the Plan does not give sufficient recognition to the need for specialist housing for the elderly. In this respect the Plan is ineffective and hence unsound. This unsoundness would be remedied by including reference to the circumstances under which such housing would be acceptable as is proposed in **MM92**.

Local Occupancy

137. The supporting text to the Affordable Housing Policy in the Plan (Policy DP11) seeks to apply a local occupancy requirement to affordable housing in the rural area. In other words it seeks to give preference to people with a local connection when providing such housing in the rural area as a whole. However, it is the Council's duty to provide for people in the greatest need for housing regardless of where they come from.

⁵³ ED57. Clarification on Market and Affordable Housing. Affordable Housing Backlog.

Such a local occupancy condition cannot, therefore, be legitimately applied as normal policy across the rural area as a whole. The Plan is, in this respect, unjustified and hence unsound.

138. Such a local occupancy condition can, however, be applied to rural exception sites (Policy DP12) the very purpose of which – as an exception to normal policy – is to provide affordable housing for local people in locations adjoining rural settlements where development would not otherwise be permitted. This unsoundness would be remedied by deleting the relevant portion of the supporting text to policy DP11 and inserting it in the supporting text to DP12 as is proposed in **MM85** and **MM90**.

Issue 7 – Gypsies & Travellers

139. The Plan identifies an undisputed and substantial need for Gypsy and Traveller accommodation but does not allocate any individual sites. That task is delegated to the Gypsy and Traveller – Site Allocations plan the preparation of which will proceed alongside the preparation of the Local Plan Part II Allocations document. This is a pragmatic approach. The Council will of course be required to discharge its duty to cooperate in the preparation of the Gypsy and Traveller – Site Allocations plan and in doing so will be able to establish whether there are any cross boundary implications to the provision of such sites.
140. Reservations were expressed at the hearings on behalf of the Gypsy and Traveller community about the Council's track record in actually delivering such sites. The preparation and implementation of the Gypsy and Traveller – Site Allocations Plan will demonstrate whether or not these reservations are well founded. In preparing this future plan the Council will also be able to determine whether or not it would be necessary or appropriate to make provision for transitory pitches as opposed to transit pitches (the latter would accommodate a caravan, the former a caravan plus grazing land).
141. The Council acknowledged at the hearings that the statement in Policy DP15 that sites should be compatible with surrounding land uses is ambiguous. It proposes to delete this statement by way of a minor modification.

Issue 8 – Business Development

Frome

142. It was common ground at the hearings that while there is no evidence of an overriding quantitative need for additional food retail floorspace in Frome, there is qualitative evidence that more such floorspace is needed in order to increase variety and choice of food stores in the town centre and reverse the current outflow of trade. To this end, Policy CP6 makes provision for, amongst other things, a medium scale foodstore of about 1500sqm (net) including only an ancillary element of non-food goods. However, in the run up to the hearings, the Council accepted that it had no evidence to support the figure of about 1500sqm and

proposed its deletion – the policy would, therefore, simply refer to a medium scale foodstore including only an ancillary element of non-food goods.

143. This was opposed by the Town Council and local community groups who, while acknowledging the dilemma the Council was in, considered that the term 'medium' was imprecise and gave no effective guidance as to what scale of foodstore might be permissible - the concern being that if such a store were too large and contained too much non-food retail it could displace other town centre uses.

144. However, while there is undoubtedly considerable force in these arguments, it would be quite clear what purpose the modified policy was intended to serve, namely to provide for more choice in food shopping while not allowing for more than ancillary amounts of non-food shopping. While such a policy would require a degree of interpretation, it would be capable of being effective. Moreover, no substantial evidence was put forward to gainsay the Council's position and provide firm support for the figure of about 1500sqm. It follows, therefore, that this element of the policy is unjustified and therefore unsound. This unsoundness would be remedied by the deleting the reference to about 1,500sqm as proposed in **MM48**.

Street.

145. Clarks Village is an early example of a Factory Outlet, a type of shopping provision that emerged in the 1990's. Policy CP8 deals, amongst other things, with Clarks Village. However, the Council acknowledges that patterns of shopping behaviour have changed and that there is now a need to allow for a larger proportion of floorspace to be devoted to the sale of various forms of food and drink. In these respects Policy CP8 is ineffective and hence unsound. This unsoundness would be remedied by permitting a larger proportion of floorspace in Clarks Village to become A3, A4 and A5 food and drink uses as is proposed in **MM56** and **MM59**.

Glastonbury

146. It was common ground at the hearings that, unlike other parts of the District, there is a demand for B2 units in Glastonbury - something that is acknowledged in the Council's economic projections⁵⁴. There was, however, disagreement as to whether there was any B2 land immediately available in Glastonbury.

147. However, even if the representors are right that there is not, this would not warrant rewording Policy DP20 to state, in effect, that existing B2 sites in Glastonbury could only be redeveloped for B2 uses. While Policy

⁵⁴ SD61 Economic Projections. August 2012 update. Paragraph 4.20.

DP20 in its current form does support the reuse of B2 sites, it only does so where, amongst other things, this would not prejudice the Council's wider employment land strategy which, as Policy CP3 makes clear, includes encouraging a diverse, robust, thriving and resilient local economy. So, if a case were to be made that a particular proposal for the reuse of a B2 site would conflict with this strategy then it could be resisted under the terms of Policy DP20.

148. In coming to this view I am aware that this matter relates to the points made earlier in this report about the loss of land needed for employment in Glastonbury (paragraph 27) and a possible imbalance between housing and employment land in the town (paragraph 100). These in turn relate to the overarching question as to whether a Strategic Site at Glastonbury should be allocated in the Plan (paragraphs 29 - 30). In a nutshell the concern is that the Plan does not make clear how it will meet housing requirements while protecting B2 uses. I do not share that concern. While it is true that it is assumed in the Plan that much of Glastonbury's housing requirement will be met on sites within the town and that some of these sites may be B2 sites, policy DP20 is robust enough to prevent the reuse of these sites if that is warranted. Moreover, if it transpires that further sites will need to be found on green field land on the edge of Glastonbury then this will be done through the Part II Local Plan Allocations document. I see no reason why such an approach would necessarily lead to a loss of land needed for employment or an imbalance between employment land and housing land.

Issue 9 – Local Development Policies.

149. The Plan contains a number of Local Development Policies. In considering these it is necessary to bear in mind that it is not the function of the Examination to 'improve' these policies but rather to establish whether or not they are sound. It follows, therefore, that minor wording changes that do not affect the soundness of the policies go beyond the scope of the report.

AONB

150. The extent of the AONB in Mendip is clearly shown in the Plan. Policy DP4 specifies that the conservation and enhancement of natural beauty, conservation and wildlife heritage will be the primary considerations in determining development proposals in the AONB. The supporting text to this policy stresses the national importance of this designation. That being so I do not consider that the Plan needs to be modified to make additional reference to the AONB.

Traditional Orchards

151. Traditional orchards are a locally designated natural habitat and as such are covered by the terms of Policy DP5 which seeks to ensure the protection of such features. That being so there is no need to make specific reference to traditional orchards in this policy.

Sewage Treatment Works Consultation Zones

152. Policy DP8 includes the statement that development will not be permitted within Sewage Treatment Works Consultation Zones as

defined on the Proposals Map. However, the extent of such zones is defined by the Water Companies and is subject to change. I do not consider that the policy is strengthened in any meaningful way by the inclusion of the reference to the Proposals Map. Without that reference the policy would still alert developers to the existence of these zones and the need to obtain further advice about them. The inclusion of a reference to a possibly outdated boundary would potentially be misleading. This element of Policy DP8 would, therefore, be ineffective and unsound. While it is not the Inspector's role to examine the Policies Map this element of unsoundness would be remedied by deleting reference in the policy to the proposals map, or Policies Map as it is now called, as proposed in **MM77**.

Managing Flood Risk

153. Managing flood risk is an important matter when considering development proposals in the district. The submitted version of the Plan does not contain a policy dealing with this matter. In this respect the plan is, therefore, ineffective and hence unsound. This unsoundness would be remedied by including a policy and supporting text dealing with this matter as is proposed in **MM98 – MM103**.

Road Improvements/ promoting tourist facilities in Glastonbury

154. Policy CP7 includes a reference to the Council working with partners, landowners and other interests to re-route traffic currently using Chilkwell Street and to promoting improved tourist facilities. These proposals are supported by Glastonbury Town Council but it is concerned that there is a history of uncompleted schemes in the town and there is no guarantee that these particular proposals will actually be implemented. However, while it is difficult not to sympathise with the palpable sense of frustration felt by the Town Council, the fact remains that, with present levels of funding, the Council is simply not in a position to say that such schemes will definitely take place or to set out a timetable for their implementation.

Design Review Panel

155. The Framework states that local planning authorities should have local design review arrangements in place⁵⁵. The Council is considering how to take this forward. If the Council had decided how to implement this then it would have been sensible to have referred to it in the Plan. However, it has not and there is nothing in the Framework that says such arrangements must be included in policy.

Landscape Setting of Wells

156. Insufficient evidence was put forward at the hearings to indicate that the Plan paid inadequate attention to protecting the gateways and

⁵⁵ National Planning Policy Framework. Paragraph 62.

fringes of the City, particularly its southern landscape setting.

Kilver Court Viaduct

157. Policy DP18 proposes, amongst other things, that the sections of railway embankment and the Grade II Listed viaduct to the west of Kilver Street and north of Charlton Road, Shepton Mallet should be safeguarded from development that would prejudice the construction of a multi use path. This would form one end of a longer multi use path following the line of a disused railway running north out of Shepton Mallet to Chilcompton and beyond. Such a proposal is consistent with the aim of protecting and exploiting opportunities for the use of sustainable transport⁵⁶.

158. However, in this instance the safeguarded land forms part of Kilver Court, a retail outlet and conference venue that makes a significant contribution to the local economy. It was confirmed at the hearings that a scheme is under discussion to increase the number of retail units on the site and this would involve the use of the embankments and viaduct for parking and as part of a one way access to the site – something that would preclude a multi-use path.

159. At the hearings no suggestion was made by the Council that such a proposal would be out of step with the strategy for Shepton Mallet as set out in Policy CP9 or that there was no reasonable prospect of this scheme coming forward. It was, however, pointed out that Policy DP18 would not preclude such a development providing satisfactory alternative provision were made but it was not made clear what that satisfactory alternative provision would be or, more significantly, what purpose it would serve if it were provided. As has already been established the section between Kilver Street and Charlton Road would form one end of a longer route running north out of Shepton Mallet and that footpath would function just as effectively if it were to start at Kilver Street as it would if it were to start at Charlton Road.

160. I consider, therefore, that the safeguarding of the section of the proposed multi use path between Kilver Street and Charlton Road is unjustified. In this respect the Plan is unsound. This element of unsoundness would be remedied by making clear that the land in question is not safeguarded for the purposes of Policy DP18. The Council proposes to do this by way of a modification to the policy map.

Issue 10 - Other Matters

161. A range of other matters were raised by representors.

Provision of facilities

⁵⁶ National Planning Policy Framework. Paragraph 35.

162. It was suggested that more considerations should be given in the Plan to provision for healthcare facilities, leisure, open space, playing fields, education, traffic and transport both generally across the District and in Frome in particular. However, while all of these concerns are relevant and genuine, they are already dealt with in policies such as CP6 which refers to education and green infrastructure proposals in Frome, DP9 which deals with the transport impact of new development, DP16 which deals with open space and green infrastructure, DP17 which deals with safeguarding community facilities and DP19 which deals with development contributions. It is unclear what would be added by making further reference to such matters.

Employment provision

163. It was suggested that the proposal to allocate the Bath & West Showground site at Shepton Mallet but not to make similar allocations at other towns such as Frome puts those other towns at a disadvantage. While this may be the case in the short term a remedy is at hand as it will be possible to allocate a further employment site or sites through the preparation of the Part II Local Plan Allocations document. Alternatively, such a site or sites could be identified through the preparation of the Neighbourhood Plan for Frome. Any disadvantage Frome or other towns may suffer in the meantime would not warrant deleting the Bath and West Showground site, a site that the Council regards as being of strategic significance, or delaying the preparation of this plan so that similar allocations could be made in other towns.

Roads in Ditchet

164. The highways authority has raised no objection in principle to the proposed level of development in the village on the grounds that the roads there could not cope with the additional traffic. There is insufficient evidence on highway grounds, therefore, to warrant scaling down the amount of development proposed in the village.

Parking in Wells

165. In a closely argued and meticulously researched representation it was suggested that the Plan fails to make provision for long stay parking within walking distance of the centre of Wells, in particular it does not safeguard a site at Palace Farm which, it was argued, was the last remaining opportunity for such a car park and which could have been developed by the time the Part II Local Plan Allocations document is prepared.

166. However, the Palace Farm site has been reserved for parking for a number of years in the outgoing Local Plan without a viable scheme for that use coming forward. Moreover, even if it were accepted that this site is indeed the last remaining opportunity to provide the necessary parking in Wells, insufficient evidence has been put forward to demonstrate that there is a firm prospect of this site being developed in its entirety in the near future for a use other than parking. Parking in Wells is not, therefore, a problem which has a short term solution readily to hand. It is appropriate, therefore, to investigate this matter further through the Part II Local Plan Allocations document.

Assessment of Legal Compliance

167. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The Mendip Local Plan Part I: Strategy and Policies (the Plan) is identified within the approved LDS dated 18 November 2013 which sets out an expected adoption date of June 2014. The Plan's content and timing are broadly consistent with this compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in November 2013 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modification' changes.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Appropriate Assessment (AA)	Three Habitats Regulations AA Screening Reports have been prepared (two dated January 2011 and one dated November 2012) and these set out why AA is not necessary.
National Policy	The Plan complies with national policy except where indicated and modifications are recommended.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
Public Sector Equality Duty (PSED)	The Plan complies with the Duty.
2004 Act (as amended) and 2012 Regulations.	The Plan complies with the Act and the Regulations.

Overall Conclusion and Recommendation

168. The Plan has a number of deficiencies in relation to soundness for the reasons set out above which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the Act. These deficiencies have been explored in the main issues set out above.

169. The Council has requested that I recommend main modifications to make the Plan sound and capable of adoption. These are included in the Appendix to this report.

170. Not all of the main modifications in the appendix are referred to specifically in this report. This is because many of them derive from a relatively small number of key main modifications, which are dealt with in the report, or they were simply not contentious. They do not, therefore, warrant separate mention. A number of the main modifications require changes to the policy map. I conclude that with the recommended main modifications set out in the Appendix to this

report the Mendip District Local Plan Part I; Strategy and Policies satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

R J Yuille

R J Yuille

This report is accompanied by the Appendix containing the Main Modifications