

# NORTON ST PHILIP PARISH COUNCIL

<http://www.nortonstphilipparishcouncil.co.uk/>

## Comments on the main modifications to the Mendip Local Plan Part 2

**NSP PC request that this representation is considered together with that submitted by DLA Piper, which was commissioned jointly by Beckington, Rode and NSP PCs.<sup>1</sup>**

### **1a. LPP2 Examination**

**1.1** Norton St Philip Parish Council (PC) have engaged with Local Plan Part 2 (LPP2) since consultation began in 2015. Over 100 village residents attended a Public Meeting in November 2015 and there has been widespread and meaningful consultation within both PC and Community since then.

**1.2** In February 2018 the PC submitted a response to the Sites and Policies- Issues and Options Consultation. It sets out the reasoning behind the PC's approach to LPP2 and its consequent support of it. It also provided a summary of the evidence for the proposed Local Green Spaces in the village. As it is not an Examination document, this representation is attached as an Appendix.

**1.3** In May 2019 the PC submitted a Representation to the Inspector concerning Pre-Submission Consultation Responses (Examination document FWR07). This reaffirmed the PC's position and responded to suggestions made by landowners/developers during the pre submission phase. It concluded :

*"NSP PC consider that the Draft LPP2 provides the necessary vision and framework for the development of NSP during the Plan period. Together with the policies in the NSPNP the needs of NSP in relation to housing development are addressed and met. The PC fully support the Draft LPP2."*

Overall, the PC was satisfied that the submission version of LPP2 was sound and was supportive of its adoption.

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<sup>1</sup> This paper should also be read with the submission from these 3 Parish Councils to the Inspector (Exam Doc ED21) of 3<sup>rd</sup> October 2019 and subsequent correspondence of 4<sup>th</sup> and 24<sup>th</sup> November 2019 with the Deputy Chief Exec of MDC

## **1b. LPP2 examination hearings**

**1.4** The PC were aware of the Inspector's stipulation prior to the Hearings that *"Those who are supporting the Plan or who are not seeking changes to the Plan are not entitled to take part."*

Thus the PC was not invited to participate in the Hearings as a principal party.

**1.5** The PC are, however, grateful to the Inspector for allowing Mr Ian Hasell (Chair of the NSP Neighbourhood Plan Steering Group) to make a brief statement, albeit at a late stage at the Hearing. This was because several statements of fact, not previously submitted during pre submission Consultation, were made by representors at the Hearings without challenge.

**1.6** The PC subsequently detailed these statements and the PC response in a document which, again, we are grateful that the Inspector has accepted as an Examination Document (ED09B). We would stress that, as the Inspector will remember, this was a spontaneous request made during a coffee break and that Mr Hasell had had, as he explained in his remarks, no time to prepare.

**1.7** Notwithstanding the above, any suggestion that NSP PC had anything other than the most minimal involvement in the Hearings would be wholly incorrect. It is certainly fair to note that whilst the Inspector has clearly given great consideration to, and provisional acceptance of, statements made by landowner/developers at the Hearings, no such consideration has yet been given to either the written or oral representations made by NSP PC.

## **2. Interim Note (ED20)**

**2.1** Following the publication of the Inspector's Interim Note (ED 20), NSP PC, together with Rode and Beckington PCs, submitted a response to the Inspector on 3 October 2019 seeking clarification for his justification for the proposed Main Modifications concerning both Local Green Space and the additional 505 dwellings. The LPA requested that this should become an Examination Document and we are grateful to the Inspector for accepting it. It is logged as ED21; for ease of reference Rode PC is re-submitting this document as a Consultation document, together with two letters subsequently sent to MDC's Deputy Chief Executive.

**2.2** The 3 PCs Representation (ED21) examined the evidence for allocating 505 dwellings in the NE of Mendip. It drew attention to the fact that the Inspector had not made it clear whether he viewed the allocation as a new allocation or whether he considered that **none** of the 505 have been taken up as set out in MDC's IQ7 (505 dwellings).

### **3. Concerns regarding methodology underpinning main modifications**

**3.1** The PC has significant concerns about the methodology used by MDC in assessing sites for allocation as part of the proposed Main Modifications. The sites selected have been promoted by the landowner during the LPP2 process. As no allocations were proposed in the draft LPP2, no consideration has been given to a "call for sites" and subsequent appraisal.

**3.2** It is clear that MDC have been hurried into making allocations. The risk in taking this course is that a full, objective appraisal is not made and that alternative sites are not considered, let alone consulted upon. Indeed, as the following section sets out, one of the sites allocated has had housing development proposals dismissed at Appeal **twice**.

**3.3** As set out in the representations of DLA Piper – submitted jointly on behalf of the parish councils of Rode, Beckington and Norton St Philip – we consider that the underlying reasoning given by the Inspector in ED20 (that the additional 505 dwellings were to meet need specifically in the north-east of the district) is unsound, unjustified and finds no basis in LPP1. The Inspector is clearly mistaken as to the clear interpretation of LPP1 policy CP1 and this error has been carried across to the artificially restricted search for sites undertaken in selecting draft allocations as part of the current Main Modifications.

**3.4** As set out in the DLA Piper representations in more detail, it is clear that the intention of LPP1 was for the '505' allocations to be made in accordance with the spatial strategy set out in Core Policy 1 i.e. across the district as a whole. Indeed, the LPP1 Inspector suggested Main Modification 19 which directed MDC to *"Add another box with reference to additional 505 dwellings to be allocated in the District."* The LPP2 Inspector makes no reference to this Modification in his ED20 note.

**3.5** Nevertheless the LPP2 Inspector has stipulated finding allocations in the north-east of the district only, with a particular focus on *“the primary villages which are located to the north of Frome”*.

As a result, the Main Modifications have not been prepared in the manner specified in LPP1 CP1 as their geographical area has been unjustifiably limited to the north-east – an area suggested as only a possibility (*“may include”*) in para 4.21 of LPP1. Neither MDC nor the LPP2 Inspector has explained why the deviation from the LPP1 spatial strategy in proposing these Main Modifications is justified. These strategic concerns apply regardless of the particular merits of any individual draft allocation. The key point is that the underlying methodology used to select them is flawed.

#### **4. Neighbourhood Plan**

**4.1** NSP PC submitted its Draft Neighbourhood Plan to MDC on 28<sup>th</sup> February 2019. It passed Examination under the 2019NPPF on 19 July 2019.

**4.2** On 2<sup>nd</sup> September MDC’s Cabinet agreed that it should proceed to Referendum. This was arranged for 17<sup>th</sup> October 2019.

**4.3** On 8<sup>th</sup> October 2019 Lochailort Investments Ltd obtained an Injunction preventing the Referendum from taking place pending the outcome of Judicial Review proceedings. The background to and planning impact of this injunction are considered in more detail below in the context of the local green space designations and the ability of the NP to guide sustainable development in accordance with NSP’s identified local needs.

#### **5. LPP1/ Proportionate Development**

**5.1** The housing target for NSP in the adopted Local Plan Part1 (LPP1) was for a minimum of 45 new dwellings to be provided from 2006 up to 2029. The PC recognises that this was a minimum; to date NSP has seen 113 (*pace* MDC’s figure of 105) completions and commitments in the Plan period. This is over 250% of the minimum and an increase of over 35% in the village housing stock in 12 years, little more than half way through the Local Plan.

**5.2** LPP1 CP2 provides that development in villages should be proportionate and that a maximum figure of 15% above current housing levels equates to this. This was found a sound approach by the LPP1 Inspector who concluded

*“With this in mind I am satisfied that the Council has taken a reasonable approach to the distribution of development in villages”*

## **6. NPPF 2012**

**6.1** The Draft LPP2 was submitted just before the deadline for Examination under the 2012 NPPF. The references in this section thus relate to the 2012 NPPF.

### **6.2 Para 17**

This sets out a set of core land-use planning principles which should underpin both plan-making and decision-taking. These principles require that planning should :

- a) *“be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area.”*

This proposal is not “plan led” but “Inspector led”. It is clearly unwelcome to the LPA who have publicly admitted that they have had no opportunity to consult with the communities affected, let alone give them any opportunity to “*shape their surroundings*”. A Neighbourhood Plan for NSP, prepared by the community, has passed Examination but has been stalled as a result of an injunction obtained by Lochailort Investments Ltd, whose sites are proposed for allocation through MM114.

- b) *“be a creative exercise in finding ways to enhance and improve the places in which people live their lives”*

These proposed allocations have the appearance of a box ticking exercise, with no full sustainability appraisal in particular for the proposed NSP sites. We support the objections raised by Bath and North East Somerset Council regarding the lack of adequate traffic impact analysis.

- c) *“take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities”*

There has been no attempt to establish the needs of the residential and business communities in this allocation. The Neighbourhood Plan establishes such need, and seeks to address those needs.

- d) *“take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”*

Quite clearly no regard has been paid to this aspect. The Development brief states *“it is not prominent in the landscape”* but as the visualisations in Appendix [number] show, and CPRE have noted in their representation, this is clearly not the case. There are prominent vistas towards the Westbury White Horse that would be materially and radically altered through the introduction of prominent built development along the ridge. Similarly, as the visualisations demonstrate, development of this site would also close off the visual link between the churchyard and village cricket ground towards the open countryside to the south and south-east. This would curtail the long-existing 'green finger' that at present reaches directly into the heart of the village.

e) *“support the transition to a low carbon future in a changing climate”*

This allocation cannot claim any such support. Both Mendip DC and Somerset CC have declared a Climate Emergency.

f) *“contribute to conserving and enhancing the natural environment and reducing pollution”*

These are greenfield sites.

There being almost no employment opportunities in NSP, and very limited public transport, this proposal will lead to an increase in car use, out-commuting and pollution.

g) *“encourage the effective use of land by reusing land that has been previously developed (brownfield land)”*

Both these sites are greenfield. At para 3.65 of the Draft LPP2, MDC committed to *“continue to explore options and invite suggestions for brownfield sites through the consultation process on this Plan and other initiatives.”* This proposal undermines this sound basis for allocations which conforms with Section 11 of the 2019 NPPF.

h) *“promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production)”*

These sites are an important green corridor for wildlife. Although the Mackley Triangle would retain an element of this important function, the density of proposed development on the adjoining field would result in it being swept away.

i) *“conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations”*

The 2007 Conservation Area Appraisal notes that *“The views back east to the ridge and the skyline of High Street and The Plain from Church Mead and the Wells Road entry are also significant.”*(para 8.3). These views, together with an approximate visualisation of development on Mackley Lane are on p xx.

- j) *“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”*

NSP cannot be considered a sustainable transport location. There is an infrequent bus service; cycling or walking to the nearest towns is not a practical option.

- k) *“take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs”*

### **6.3. Para 28.**

*“Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:*

- a) *support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings*
- b) *promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship*

There would be some economic gain to the village in terms of increased trade for the shop and pubs. There are very few employment opportunities in the village, with the overwhelming majority commuting out. There would likely be a marginal increase in the use of the Village Hall and numbers attending church. These benefits should be weighed against the harm to other aspects of sustainability, particularly environmental.

### **6.4 Paras 32,35**

*“Plans and decisions should take account of whether.... safe and suitable access to the site can be achieved for all people”*

*“Developments should be located and designed where practical to:*

- a) *give priority to pedestrian and cycle movements, and have access to high quality public transport facilities*
- b) *create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones*

The layout of the site and its relationship to the existing Fortescue Fields development mean that vehicular access to the western half of the draft allocation could not feasibly be taken through Fortescue Fields. Instead, access would have to be taken along Mackley Lane to the south which is a narrow, single track road with no footways or passing places. There is a 4 way junction with the B3110 (a busy road, being the Frome-Bath road which avoids the A36). The width and visibility splays of this junction are below SCC and national highways standards.

There is a bus service between Frome and Bath. This was recently under threat and received a grant from NSP and Rode PCs in order to maintain the service.

## **6.5 Paras 109,110,111,118**

*“The planning system should contribute to and enhance the natural and local environment by .... protecting and enhancing valued landscapes.”*

*“Plans should allocate land with the least environmental or amenity value”*

*“Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land)”*

*“When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:*

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”*

Although not a planning application, conservation and enhancement of biodiversity is a material consideration for this proposal. The sites are greenfield and part of a green corridor, stretching into the village from the west. This is an important corridor for wildlife, including foxes, badgers, bats and birds. This proposal, in particular the density proposed on the southern site, would sweep that corridor away causing significant and irreparable harm.

## **6.6 Para 134**

*“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”*

The views from the southern approaches to the village are remarkable as the visualisations in Appendix [number] show The proposed site sits high on the ridge

and would adversely affect not only views of the village and its heritage assets but also the Westbury White Horse, a Scheduled Monument.

There are no public benefits coming forward with this proposal and thus the significant harm caused to the setting and these important views cannot be justified.

The proposed MM114 Policy states that *“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 PC fundamentally disagrees with this statement. As demonstrated in the visualisations, development along the ridge would be extremely prominent when viewed from the historic churchyard and recreation ground, breaking the visual link between the open countryside and the historic heart of the village.

## **6.7 Para 150**

*“Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities.”*

The vision and aspirations of the local community are reflected in the Draft NP. Any proposed allocations should be delivered either through the NP or a review of the NP. The PC has committed to a ‘NPP2’ and will start work on preparing it as soon as NPP1 is ‘made’.

Delivering sustainable development will continue to be the core of any review.

## **6.8 Para 155**

*“Early and meaningful engagement and collaboration with neighbourhoods, local organisations and businesses is essential. A wide section of the community should be proactively engaged, so that Local Plans, as far as possible, reflect a collective vision and a set of agreed priorities for the sustainable development of the area, including those contained in any neighbourhood plans that have been made.”*

There has been no engagement or collaboration with the community, let alone “proactive engagement”. The LPP1 Inspector clearly recognised the importance of such engagement, proposing MM24 which read: *“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.”*

This proposal appears to be more of a decree than the product of any engagement, let alone genuine, two-way, engagement. NSP has delivered more than 250% of the LPP1 minimum.

## 6.9 Para 157

*“Crucially, Local Plans should:*

- indicate broad locations for strategic development on a key diagram and land-use designations on a proposals map”*

Such a key diagram is on page 29 of the adopted LPP1. A box was included in this diagram to comply with MM 19 *“Add another box with reference to additional 505 dwellings to be allocated in the District.”* The Inspector’s view is that the strategic provision of 505 houses has not been fulfilled. He appears to be suggesting that they are allocated in a non-strategic manner. This is contrary to para 157.

## **7. MM7 / MM112- Local Green Spaces**

**7.1** Work on the Local Green Space designations in NSP began in 2015 with a full review of the existing 6 OALS and consideration of further spaces which might merit consideration. Evidence supporting the proposed spaces was submitted to MDC in 2016 which following review deleted 2 of them. The very substantial evidence in support of the 10 designations in NSP which were in MDC’s LPP2 draft submission can be seen on the NSP NP website<sup>2</sup>.

**7.2** In addition, the thrust of the Inspector’s Interim Note (ED20) [in particular the references to Local Green Space] was relied on by Lochailort (as Claimant) in the successful application for an Injunction. In her judgement, the Judge found that *“preservation of the status quo also favours granting the injunction sought”*. 9 weeks later, Lochailort submitted a full Planning Application, running to several hundred pages, for 38 houses, a community building and car park.

**7.3** The NSP Neighbourhood Plan was examined under the NPPF 2019, not the NPPF 2012. There was a material change in national policy relating to local green space. As such, MDC’s *current* decision to withdraw all LGS designations from LPP2, following ED20, is a disappointment to the PC.

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<sup>2</sup> <https://nortonstphilipneighbourhoodplan.com/local-green-space-applications/>

**7.4** Nevertheless, as MDC have consistently made clear hitherto, all the proposed NSP LGSs in MDC's original LPP2 submission meet the criteria set out in para 100 of the 2019 NPPF as follows:

*"The Local Green Space designation should only be used where the green space is:*

*a) in reasonably close proximity to the community it serves;*

*b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*

*c) local in character and is not an extensive tract of land."*

**7.5** The PC notes that the Inspector recognises that LGS designations can be made in NPs and that MM7 specifically provides for this. The PC also notes that MDC's current – very recent – proposal to withdraw all its proposed LGSs across the District is accompanied by a proposal that they should all be reviewed, ie not discarded.

## **8. MM4**

**8.1** Para 3.38 of the Draft LPP2 has

*"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. "*

**8.2** MM4 proposes

*"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."*

**8.3** The proposed allocations (MM113/114) would thus be in direct conflict with para 3.38 as drafted and modified by MM4.

## **9. NSP/Rode School**

**9.1** Para 17 of the LPP2 Inspector's Interim Note (ED20) suggests that allocations in the primary villages of the NE would

*"provide additional pupils to assist schools with decreasing complements, or where the future existence of these schools within the plan period is at risk."*

**9.2** The PC would point out that the two recent, large developments in the village at Fortescue Fields and Longmead (over 80 houses) currently send no children to the school.

**9.3** Since 2016 the NSP school has been federated with Rode. The school has expanded; where 2 year groups were previously combined as one class, there is one class per year group. There are 5 classrooms across the two schools; the capacity of each is 30. Currently the school is at 89% of capacity.

**9.4** For the next school year, starting in the autumn of 2020, 12 of the 30 places in the reception class are designed for Norton St Philip children . There has been good take up so far with all 12 of the 'Norton St Philip' places already taken up.

**9.5** In her letter of 8th July 2018 to Lochailort (included in Lochailort's Hearing Statement PS03-13), The Head Teacher points out that the school is *'vibrant, expanding and sustainable'*

**9.6** We would also refer to the letter dated 30<sup>th</sup> July 2019 from the Chair of School Governors (in Exam document ED09B). In this letter, the Chair points out that the school has been turned around *"from a position of unviability to be a vibrant, expanding and sustainable school within our federation. This has proved to be very successful with the latest Statutory Inspection of Anglican and Methodist Schools (SIAMS) judging both schools as excellent."*

**9.7** These schools are a great example of how a federated system can work to the advantage of two distinct rural communities. Furthermore, as the Chair notes in his letter, the type of development proposed in the NP *"are more likely to attract families with young children"*.

**9.8** Notwithstanding the above, if the availability of school places is to be a driver for development, there are many other schools in the District with a decline forecast in the school roll, including in the five main towns and several primary villages not in the Inspector's "area of search". NSP has very limited spare capacity; by contrast, the 5 towns (and some of the other villages) have considerable spare capacity.

**9.9** Proposals are being developed to improve staff car parking as a part of a strategic plan designed, inter alia, to improve drop-off/collection of children with safety considerations uppermost.

## **10. Circumvention of neighbourhood plan process**

**10.1** The 'stalling' of the NP arising as a consequence of the Injunction described above has prevented the PC and community from pursuing its objectives as articulated in the draft NP's six Policies.

**10.2** These include enabling redevelopment of the garage site whilst assisting with its relocation to a site outside of the village and providing homes for local people wanting to get onto the housing ladder through its Exception Site Policy.

**10.3** The aspiration of these Policies should be considered in the light of the requirement of the LPA to set a housing requirement figure for the NP area. The NSP NP was examined under the 2019 NPPF; Para 65 is relevant:

*"Within this overall requirement (for housing numbers), strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations. Once the strategic policies have been adopted, these figures should not need re - testing at the neighbourhood plan examination, unless there has been a significant change in circumstances that affects the requirement."*

The requirement set by MDC was zero.

**10.4** Whilst the Examination of the NP and LP are separate processes, the NP provides for proportionate development in line with National and Local Policy as well as reflecting the wishes of the community and delivering the sort of development that they want and for which a local need has been identified.

**10.5** The PC considers that it is the NP process that would be most appropriate to the extent that additional allocations might be required to meet the specific needs of the north-east of the district (as opposed to meeting district-wide housing needs). The proposed Main Modification allocating housing to NSP bypasses the legitimate Neighbourhood Plan process.

**10.6** Since the Consultation started, a local landowner has come forward with an alternative site on the edge of the village, adjoining the settlement boundary. The landowner has submitted a representation to the Consultation.

**10.7** Whilst the PC are not promoting this site above others, it nevertheless supports our submission that allocations should be made as part of a coherent, evidenced site selection process that accords with the adopted spatial strategy and not in the ad hoc manner in which the proposed Main Modifications have come forward based on a flawed interpretation of the LPP1 requirements.

**10.8** Should further strategic allocations be required as a result of LPP2 this should be undertaken through full consultation, a “call for sites” and an early review of the local development plan as envisaged by MDC.

## **11. Proportionate Growth**

**11.1** As noted above NSP has already seen development of more than double the LPP1 minimum allocation. The PC are aware that some settlements in Mendip, with similar or greater populations, have had no allocations in either LPP1 or LPP2. We also note that – as set out in detail in the DLA Piper representation – a number of Primary Villages elsewhere in the district are yet to meet their minimum LPP1 targets. Furthermore the 5 main towns - the most sustainable locations for development- are currently 436 short of their minimum requirement.

**11.2** Whilst new people moving into the village go some way towards keeping it vibrant, the recent level of population increase also provides significant challenges for developing new social links and maintaining and developing the existing strong sense of community.

Sustainable development needs to allow existing infrastructure to expand for the new population, as well as allow time for social integration.

**11.3** This position was confirmed at a recent (2015) Appeal<sup>3</sup> for development on 1 of the 2 sites now proposed for allocation. The Inspector, having considered the Housing Supply, concluded that *“In effect, the village has accommodated more than 200% of the identified allocation in the first 8-9 years of the Plan period, amounting to an increase of some 35% in the housing stock of the village, well above the ‘proportionate’ 15% growth anticipated by the Part 1 Plan for villages such as this. Whilst I recognise that the figures in the Plan are expressed as minima, the need to plan for proportionate levels of growth remains an essential consideration in accordance with the spatial strategy set out in Core Policy 1. The addition of up to a further 57 dwellings would undermine that strategy”* (para 31).

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<sup>3</sup> APP/Q3305/A/14/2221776

**11.4** The proposed allocation would not constitute proportionate growth of Norton St Philip and are not considered sustainable.

## **12. Site unsuitable for allocation due to inherent constraints**

**12.1** In dismissing an Appeal<sup>4</sup> for development on this site in 2001 the Inspector recognised that *‘the land in question appears to be part of the countryside and not the village’*

and that *‘the loss of the Laverton (Mackley) triangle to built development would mean that the built boundary would move markedly westwards, out into the open countryside. Houses would be seen above the hedges, as the land lies above adjacent roads’.*

He concluded that *‘the proposal would seriously harm the setting, character and appearance of this part of the village’.*

**12.2** Lochailort applied for development on this site in 2013<sup>5</sup>. In dismissing the Appeal<sup>6</sup> in 2015 the Inspector referred to the observations made by the previous Appeal Inspector, noting that they *“hold true today”*.

In concluding that development on the Triangle should not be permitted, the 2015 Inspector summarised:

*‘I am in no doubt that the built impact on this site would be seen as an incursion into the open countryside that would cause substantial harm to the character and appearance of the area’*

**12.3** The Mackley Triangle was subsequently submitted by Lochailort for consideration at the ‘Issues and Options’ stage of consultation for LPP2 in 2015. The adjacent field was not put forward for consideration.

In their submission on the consultation, Lochailort suggested that:

*“...the relationship between Fortesque(sic) Fields and Mackley Lane could be further enhanced (over and above a committed 15 meter buffer landscaping belt) by accommodating a modest new development of half a dozen also new homes nestled*

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<sup>4</sup> APP/Q3305/A/01/1060390

<sup>5</sup> 2013/2052. Decision Notice at [https://publicaccess.mendip.gov.uk/online-applications/files/6A33CBDF04FF96BBD52190C22E8258FD/pdf/2013\\_2052-DECISION\\_NOTICE-133136.pdf](https://publicaccess.mendip.gov.uk/online-applications/files/6A33CBDF04FF96BBD52190C22E8258FD/pdf/2013_2052-DECISION_NOTICE-133136.pdf)

<sup>6</sup> APP/Q3305/A/14/2221776

*and cocooned in a particularly well landscaped and appropriately screened new green enclave, enhancing the south-eastern approach to the village and the Conservation Area whilst at the same time providing a natural conclusion of the Fortesque (sic) Fields development..... the extent of new landscaping around the properties would effectively screen them from public views meaning that in visual terms they would not be the incursion of built form out into the open countryside that cause the Inspector concern. Instead, the modest development would enhance the character and appearance of the Conservation Area with appropriate new native planting commensurate with its rural edge location.... from all viewpoints the scheme would either provide a well screened, verdant approach to the village and the Conservation Area, or a simple conclusion of the high quality award-winning built environment of Fortesque Fields”.*

**12.4** In their response to the Issues and Options consultation MDC concluded that *“While this site is developable, it is not considered suitable given its impact on the countryside and conservation area. This has been considered in detail at a recent appeal.”*

**12.5** The potential allocation site to the south of the Mackley Triangle was first put forward for consideration in February 2018 at the Pre-Submission Consultation stage. In its response, MDC stated:

*“The planning system should be plan led. LPP1 sets out strategic policies for the distribution and scale of development in settlements and identifies broad locations for future growth. LPP2 sets out non-strategic policies to deliver the strategy. LPP2 sets out non-strategic policies to deliver the strategy. LPP2 has not identified a need to identify specific allocations of land in Norton Saint Philip to deliver the strategy set out in LPP1.”*

**12.6** The PC has not been consulted on this site at any stage. Furthermore, there appears to have been no Sustainability Appraisal of either site until after the Interim Note (ED20) suggested allocations.

**12.7** In respect of the Triangle site, the appraisal notes:

*“Site is outside development limits at a gateway to the village. A previous appeal identified the countryside character of the site in juxtaposition to the edge of the Conservation area as important to the setting of the village. The northern edge of the site is within the Conservation Area. 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. If the*

*appearance of countryside at this gateway to the village can be retained this would mitigate the impact of development. The site is potentially suitable for a low density development and within an area of search identified by LLP2 Inspector for additional housing to make the plan sound."*

**12.8** The southern site is appraised as follows:

*"Site is outside development limits extending development into open countryside. However, it is not prominent in the landscape and is geographically within easy walking distance of village facilities, (although footpath links do not currently exist). It does not affect important views and vistas within the settlement. Potentially suitable for allocation as within an area of search identified by LLP2 Inspector for additional housing to make the plan sound."*

**12.9** The PC suggest that the only merits in developing these sites is because they have been put forward as deliverable by the landowner and that they are in the Inspector's incorrectly limited "area of search".

**12.10** This is not a sustainable or rational approach to site allocation. For the LPA to have to promote a site that they have twice refused for development and successfully defended at Appeal is totally absurd. For them to promote a site which has never been consulted upon runs contrary to both 2012 and 2019 NPPF.

**12.11** Furthermore, there are material constraints in any proposal to develop these sites, in particular the southern site. Mackley Lane is not suitable for access as it is a very narrow single track lane with limited forward visibility and no passing spaces. There is no footway. Its junction with the Frome Road has very limited sightlines and splays. Surface water drainage is a concern, as raised by the Flood Authority in its response to the current Planning Application for this site.

## **13. Conclusion**

**13.1** Housing completions in the 5 market towns (and a number of primary villages across Mendip) fall well short of the minimum allocations set in CP1. The 5 towns alone- the most sustainable locations for development- are currently 436 short of their minimum requirement, having provided 4470 against the minimum of 4906 (80% of 6133).

**13.2** The NP sets Policies for sustainable, proportionate growth in the village. These policies, approved by the independent NP Examiner and endorsed by MDC's Cabinet on 2 September 2019, will enhance social sustainability, provide an economic benefit and respect the natural and built environment. Any future allocations should be made through the NP process, fully involving the LPA and community.

**13.3** The PC submits that the proposed '505' allocations are unsupported by the evidence of LPP1 and Draft LPP2. There has been no consultation other than the present, which began on the very day that the allocations were announced. They do not conform to the NPPF's requirements for community involvement. They bypass the NP process; a Plan which (subject to being passed at a referendum), would have been 'made' but for the Injunction. They put the LPA in the extraordinary position of unwillingly and unhappily allocating against their own adopted Policies in the full knowledge that this is causing great concern about the democratic process, to say nothing of the anxiety to local people.

**13.4** The PC submits that proposed Main Modifications MM113/114 are unsound. In particular the draft allocations:

- are not required to support the village school;
- undermine the neighbourhood plan process;
- would not comply with the LPP1 spatial strategy objective of proportionate growth; and
- suffer from a number of inherent constraints and defects that render them unsuitable in planning terms.

**13.5** The Modifications are **not positively prepared**, as they will have significant effects upon the social and environmental fabric of the village.

They are **not justified** by any employment or economic drivers and is based on an incorrect reading of the adopted LPP1.

They are **not effective** as there has been proper consultation with the community affected.

They are **not consistent with National Policy** as set out in the NPPF.

**13.6** We request the Inspector to think again and, should he still consider that the '505' have not been addressed and taken up, request a Modification that they should be allocated – and allocated rationally - across the District.

**Norton St Philip Parish Council**  
**March 2020**

*Overleaf: Photograph taken from Byway BA25/47*



**Above: Existing view. Westbury White Horse clearly visible**

**Below: Potential landscape impact of development along Mackley Lane**



## Appendix – 2018 PC Submission to Issues and Options Consultation

[REDACTED]

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**From:** Nicola Duke <nortonstphilippc@aol.com>  
**Sent:** 15 February 2018 11:17  
**To:** PlanningPolicy  
**Subject:** Mendip Local Plan Part II: Sites and Policies - Issues and Options Consultation  
**Attachments:** 180215 MDC LPP2 consultation response.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Red Category

Dear Ms Milling

Further to your conversation with our Chair, Cllr Clive Abbott, earlier this week, please find attached the Parish Council's response to **Mendip Local Plan Part II: Sites and Policies - Issues and Options Consultation**. This response was resolved at a meeting of the parish council held last night – 14<sup>th</sup> February 2018.

The supporting information for this submission is as below:

1. Contact name: Nicola Duke – Parish Clerk
2. Name of organisation: Norton St Philip Parish Council  
[REDACTED]
4. E-mail address: [nortonstphilippc@aol.co.uk](mailto:nortonstphilippc@aol.co.uk)  
[REDACTED]
6. Date response sent in: 15 Feb 2018

The parish council also wishes to make the following points:

- We wish to be notified of future stages of Local Plan Part II.
- We are happy for MDC to make contact by e-mail.
- As we understand it, MDC's Local Plan is legally compliant and sound.
- The Parish Council *does* consider it necessary to participate at examination hearings.

Please do not hesitate to contact me if there is any additional information you require,

Kind regards

Nicola Duke B.A (Hons), PSLCC  
Parish Clerk  
For and on behalf of  
Norton St Philip Parish Council

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# NORTON ST PHILIP PARISH COUNCIL

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MENDIP DISTRICT OF THE COUNTY OF SOMERSET

[www.nortonstphilipparishcouncil.co.uk](http://www.nortonstphilipparishcouncil.co.uk)

Chairman Clive Abbott, [REDACTED]

Clerk Nicola Duke, [REDACTED] [nortonstphilippc@aol.co.uk](mailto:nortonstphilippc@aol.co.uk)

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Jo Milling  
Planning Policy Officer  
Planning and Growth Group  
Mendip District Council

*By email*

15<sup>th</sup> February 2018

Dear Ms Milling

## **Mendip Local Plan Part II: Sites and Policies - Issues and Options Consultation**

Norton St Philip Parish Council ('the PC') supports the thrust of MDC's draft submission on LPP2. We appreciate that much of our work with MDC is reflected in that draft. The PC's comments on LPP2 are as follows:

### ***Housing***

We are pleased that no change to the Development Limit is proposed. We are also pleased that there are no site allocations for development in Norton St Philip (NSP). This of course reflects the fact that the village has far exceeded the quota set in LPP1 and that further development and changes to this boundary would affect the village's character and would not be sustainable. We support MDC's approach in LPP1 whereby site allocations to meet housing need are in sustainable locations. We note that LPP1 passed examination and was adopted as a sound document on this basis: there is no justification for revisiting this as the housing need is demonstrated to be met elsewhere. The draft submission notes that the minimum requirement for NSP is 45, whereas the total completions between 2006-07 (78) plus commitments and s.106 sites (17) comes to 95. Thus NSP has exceeded the minimum requirement by over 200% with a 35% increase in housing stock since the start of the Plan period in 2006. This is significantly above the proportionate 15% growth for villages such as NSP as set out in LPP1. Accordingly, any housing development would undermine MDC's Spatial Strategy. On this basis we fully support the approach set out in LPP2.

### ***Proposed LGS Designations***

As to the ten proposed LGS designations for NSP, the PC has resolved as indicated below:

#### *LGSNSP001 - The Old Hopyard*

The PC consider that the criteria set out in para 77 of the NPPF and by MDC in their LGS Paper of Sept 2015 are clearly met in this case. We have also noted the juxtaposition of criteria in para. 1.12 and 1.13 of MDC's December 2017 LPP2 Paper *Designation of Local Green Spaces* in relation to sites protected by other designations. We understand that there are levels of protection in place and that private gardens will only warrant designation in exceptional cases. In *this* case, the PC **resolves** to invite the Inspector to decide whether the appropriate level of protection can be guaranteed by existing protections, in which case we favour exclusion, *or* whether LGS designation adds to, and does not merely duplicate, existing safeguards, in which case we believe that the proposed LGS should stand. In either case, we request the Inspector to explain his/her reasoning.

#### *LGSNSP003 - Great Orchard*

The site makes a major contribution to the visual appeal of the conservation area, blending with the surrounding contours. This also applies when looking back towards the village from the north-west. It provides an ideal setting for the surrounding listed buildings, in particular Manor Farm House. It also complements the loose-grained residential character of this corner of the village, and is also important for the richness of its wildlife. Great Orchard is of national historical significance because of its important connection with the Monmouth Rebellion of 1685. The site contributes to the village's rural character and the street scene. The openness of the site is a key feature in the historic development of the village, marking a break between the rural character of the lower village and the more densely built upper village.

In commenting on Planning Application 2013/2217 for proposals to build 33 houses on this site and the adjoining Bell Hill Garage (subsequently refused), MDC's Conservation Officer wrote:

*'The site should still be considered as a designated heritage asset through its conservation area status. It is the open and undeveloped nature of the land and the contribution this makes to the Conservation Area and surrounding environment that is being sought to be protected. It is an important green space within the conservation area and makes a significant contribution to the*

*rural character of this part of the village. It is a prominent site in surrounding views and provides a clear connection between the village, its historic development and wider agricultural surroundings.'*

In its comments on this application, English Heritage wrote that *'The area named Great Orchard provides an important green space within the Norton St Philip Conservation Area and plays an important part in creating the rural character that dominates this part of the village. This green space is prominent in views from the north-west of the village and helps to form a rural environment which connects the village with its wider agricultural surroundings and historic development.'*

The PC **resolves** to support LGS designation for this site.

#### LGSNSP004 - Ringwell Lane

The PC notes that MDC's policy is that only in exceptional circumstances should private gardens be designated as LGS. The two garden areas of the proposed LGS are part of the site which was designated Q2 in 2002 and OALS in 2006. The PC continues to believe that the whole OALS merits LGS designation, as it meets the relevant NPPF and Mendip criteria. This was considered by the Planning Inspector in the Appeal ref Q3305/W/16/3167455 dated 23 May 2017 which related to planning applications on the two gardens on the site. The Inspector noted: 'I have also had regard to where the Framework refers to Local Green Space and the criteria for designating such areas. However, I find no significant conflict between this and the OALS designation relevant to these appeals as this area is, as set out above, of particular local significance for its beauty and tranquillity, which is one of the criteria for Local Green Space designation'. The PC **resolves** to support the proposed LGS designation for this site.

The PC knows that an objection has been raised by the owner of a private garden which is included in the proposed LGS. Should either MDC or the Inspector amend the boundary of the proposed LGS so as to exclude one or both gardens, the PC further **resolves** that that approach would be supported by the PC if that ensured that the rest of the site became a LGS.

#### LGSNSP 007 and 008 - Fortescue Fields South and West

Since their creation in 2015 the footpaths that cross these two fields (007 and 008) have become part of a circular walk and village amenity, linking Church Mead with the new development at Fortescue Fields and Vicarage Lane. It should be noted that as regards the permissive nature of these footpaths the s.106 of 24/2/11 associated with Planning Permission 2010/0493 obliges the

landowner "to make the footpaths available for use by the public at all times". The views from these footpaths in all directions are extremely important to the village. They merit LGS protection.

In relation to 008, as to whether planting some 400 Leylandii trees during 2017 could, at some point in the future, minimise the visual relationship between this site and Church Mead - and beyond - the key point is that, *as of now* (the snapshot in time when that visual relationship is to be considered), those very important views are intact. This site has been the subject of an Appeal (APP/Q3305/A/14/2224073) by the landowner against MDC's refusal of permission to build up to 49 homes. This appeal document is contained in the original submission for LGS. The PC wishes to draw attention to the following comments from the Inspector:

*"To my mind, the scale of that harm verges on substantial. There would be corresponding harm to the established character and appearance of the area more generally."*

and

*"That is amply demonstrated in the sudden, quintessentially English view out from the George car park and the summit of Bell Hill over the lower slopes, including Church Mead which forms an important visual link between the centre of the village and the countryside beyond. I am in no doubt that the open undeveloped nature of the appeal site has a positive role in the significance of the Conservation Area, allowing for an appreciation and understanding of the historic evolution of Norton St Philip."*

The PC's support for these two sites, as expressed in its resolution of 2 December 2012 on proposed sites generally, takes account of strong support for LGS status indicated at a public meeting, attended by over 100 people, in NSP on 19 November 2015, and also a village-wide survey in December 2015, to which 45% of village households responded, with 98% in favour of designation. The PC **resolves** to reaffirm its view and support MDC's proposal that these two sites should be LGS.

#### LGSNSP010 - Shepherds Mead

Proposed LGS designation received overwhelming support at a public meeting, attended by over 100 people, in NSP on 19 November 2015. The PC took the same view at its meeting on 2 December 2015. Shepherds Mead is part of the rural landscape into which the village fits, thereby enhancing its setting: it is adjacent to the heart of the village. The site, which includes three Public Rights of Way, is also valuable for the richness of its wildlife.

The case for LGS status is captured in MDC's wording on p. 34 of its January 2018 paper *Designation of Local Green Spaces*:

*'The site is important to the character of the village, and is an open space in an elevated location on the ridge. Its value is in the view it allows out of the area, across the village and open countryside. It also allows views out of the adjacent built up area across the open land.'*

The PC **resolves** to support LGS designation for this site.

There are four other sites proposed for LGS designation. These are:

NSPLGS002 Lyde Green

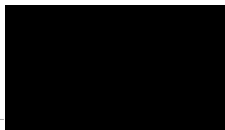
NSPLGS005 Church Green

NSPLGS006 The Churchyard and adjoining paddock. (NB: The owners of the paddock have requested the PC to note their support for LGS designation for the land in their ownership as well as the Churchyard.)

NSPLGS009 Church Mead

The PC does not feel that any further comment is required on these sites and therefore **resolves** to reaffirm its earlier support for LGS designation.

Yours sincerely



Nicola Duke (B.A Hons), MILCM  
Parish Clerk  
For and on behalf of  
Norton St Philip Parish Council