

**INDEPENDENT EXAMINER'S REPORT ON
THE NORTON ST PHILIP NEIGHBOURHOOD
DEVELOPMENT PLAN**



Deborah McCann

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SECTION 2

2.0 Summary

2.1 This report covers the re-examination of the Norton St Philip Neighbourhood Development Plan following Judicial Review. The outcome of that review was as follows (5 January 2026):

- The decision of Somerset Council dated 3 June 2025 to accept the Independent Examiner's report for the Norton St Philip Neighbourhood Plan and progress to referendum was quashed.
- The results of the Referendum held on 17 July 2025 were quashed.
- The matter was remitted back to examination.

"STATEMENT OF REASONS

1. On 3 June 2025, the Defendant made the decision that the Norton St Philip Neighbourhood Plan ('the NP') satisfies the 'basic conditions' and should proceed to referendum ('the Decision'). The Claimant brought a judicial review challenge to the Decision.

2. The referendum on the NP was subsequently held on 17 July 2025, with the outcome being in favour of the NP being made ('the Referendum'). Any legal errors in the Decision would have also infected the results of the Referendum. Accordingly, the Claimant has permission to amend its claim to also challenge the results of the Referendum.

3. The Defendant and the Interested Party agree that the Decision and results of the Referendum should be quashed pursuant to Ground 1A of the Claimant's original Statement of Facts and Grounds only, as summarised below.

4. In brief, the NP was examined by an independent examiner, whose report was dated 7 May 2025. Paragraph 67 of the National Planning Policy Framework (2023), against which the plan was being examined, says that where housing requirements for designated neighbourhood areas have been established within strategic policies in the Local Plan, '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'.

5. The Planning Practice Guidance ("PPG") further advises that "Local housing need will be considered to have changed significantly where a plan has been adopted prior to the standard method being implemented, on the basis of a number that is

significantly below the number generated using the standard method” (albeit, for the avoidance of doubt, the Defendant and Interested Party do not consider the guidance in the PPG to be directly applicable to the current context). The quoted extract from the PPG does not form part of the Interested Party’s reasons for consenting to judgment on Ground 1A.

6. The Claimant submitted representations which, amongst other things, contended that there had been a significant change in circumstances because the Defendant’s housing need had increased under the standard methodology which had been introduced following the adoption of the housing requirement in the Mendip Local Plan Part 1.

7. The NP relied upon the minimum housing requirement established through policies of the Mendip Local Plan Part 1, which was adopted in December 2014. This set the relevant housing requirement for the Mendip area as 420dpa. Since then, the standard method was introduced into national policy through the 2018 iteration of the NPPF. The standard method sets a housing requirement of 569dpa in Mendip – i.e. a 35% increase on the local plan requirement.

8. In these circumstances, the Examiner was required to consider whether there had been a significant change in circumstances that affected the housing requirement. Policy does not dictate what constitutes a significant change, which is a matter of planning judgement for the decision-maker. However, the decision-maker was required to apply his mind to this issue.

9. In examining the NP, the Examiner explained that there was no requirement to consider the changes made by the 2024 NPPF (as the NP was being examined under the NPPF 2023). However, he failed to have regard to whether the change in the housing need for the area through the introduction of the standard method, as set out in the 2023 NPPF, amounted to a significant change in circumstances.

10. This constituted a failure to take account of a mandatory material consideration and was material error of law. It means the Decision of 3 June 2025 is legally flawed.

*11. The referendum in the NP is similarly infected by this error and thus this separate decision must also be quashed (see *R (Fylde Coast Farms Ltd) v Fylde BC* [2021] 1 WLR 2794 at [54] and *R (Maynard) v Chiltern DC* [2015] EWHC 3817 (Admin) at [114]).*

12. For the avoidance of doubt the Claimant maintains that the Decision was flawed on all grounds advanced in its Original Statement of Facts and Grounds but

recognises that in light of the Defendant and Interested Parties' position it is not necessary to ask the Court to determine these matters."

2.2 As the Independent Examiner appointed by Somerset Council to re-examine the Norton St Philip Neighbourhood Development Plan, I have, in reaching my conclusions taken into consideration not only the outcome of the most recent Judicial Review but also previous Judicial Review decisions and any significant change in circumstances resulting from:

- The NPPF 2024 (as amended February 2025) in terms of the introduction of the new methodology for the calculation of housing need.
- Sections 98 and 99 of the Levelling Up and Regeneration Act (LURA) which came into force 25 March 2026.

2.3 In December 2024 the Government issued a new NPPF which made changes to National Policy in a number of areas, most significantly policy relating to housing. Paragraph 231 states:

"The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this Framework has made." Paragraph 239 states:

"For neighbourhood plans, the policies in this Framework will apply for the purpose of preparing neighbourhood plans from 12 March 2025 unless a neighbourhood plan proposal has been submitted to the local planning authority under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) on or before the 12 March 2025."

Therefore, at the time of my examination of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) December 2023.

2.4 Whilst the NDP was examined under the NPPF 2023, because of the revisions to the Standard Method for calculating housing need, which is a significant change in

circumstances, Somerset Council can no longer demonstrate a 5-year land supply and so the housing policies of the development plan can be considered out of date. This has implications for the Norton St Philip NDP and will require consideration as to whether or not it adequately addresses housing need.

In response to the significant changes in circumstance outlined above Somerset Council have provided the following housing statement:

"The Mendip Local Plan Parts 1 and II with Limited Update remain the extant adopted development plan until replaced by a Somerset Local Plan in 2029. Housing requirements and the settlement strategy in Local Plan Part I were adopted in 2014 and the plan is more than five years from adoption. There has been a substantial uplift in housing requirements based on the standard method since 2019. As the Somerset Plan is in early stages of development, the calculation of the standard method continues to be based on the former district areas. The current five-year supply position was published in July 2025 which calculates a five year requirement for the former Mendip district of 5,287 dwellings or 1057 per annum. The deliverable supply is estimated to be 3003 dwellings which equates to 2,84 years supply. The position statement confirms that policies in the Mendip Local Plan Parts I and II can be considered to be 'out of date for development management purposes.

Further information can be found online [Mendip - Statement of 5 year Housing Land Supply 2025](#)

The Somerset Plan will be going forward under the new Local Plan making arrangements. The plan period will be from 2025 – 2045. Under the new 30 month timetable, formal commencement will be April 2026 with a scoping consultation in the Autumn this year. Further consultation will take place in 2026 and 2027 with submission in 2028. Work is underway to assess the extent of available land across Somerset including a revised settlement hierarchy, but this is not likely to be published as part of the evidence base until later this year.

In the interim period of developing the plan, the council have now set out an approach to provide neighbourhood plan groups with an indicative requirement figure.

I have attached the draft advice for information although this has not yet been published, it is being shared with NP groups who have requested a requirement figure.

The indicative figures are for the period from 2025 onwards but provide a consistent approach ahead of consulting on a revised settlement hierarchy and options for the distribution of housing development.

This approach is based on modelled housing need at a Parish level over the Somerset Plan Period less current allocations and commitments from 1st April 2025. This approach is considered in alignment with the NPPF 2024 and draft NPPF at consultation. The current position for Norton St Philip is set out in table 1 below.

Indicative Settlement Housing figure for Neighbourhood Planning Norton St Philip Parish

a	ORS Calculated Housing Need 2025-2045	86
b	Housing Completions in the Plan area since April 2025	1
c	Housing Commitments in the Neighbourhood area since April 2025	9
d	Housing allocated in the adopted local plan	0
e	Housing Requirement (a-b-c-d=e)	76

3.8

Annual requirement over 20 years 5

Submitted NSP Neighbourhood Plan

	The plan covers a period of 4 years to spring 2029	15
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dwelling
s

Permissions granted since April 2025 included in total above
2023/1918/FUL Bell Hill Garage - 9 dwellings May 2025" 9

2.5 In December 2025 the government issued a consultation on a further revision to the NPPF. This consultation ended in March 2026 and there is no indication at the current time how the response to the consultation will change the proposed revisions or when the revised NPPF will come into force, although this is likely to be summer 2026. I have considered whether the proposed changes to the NPPF could

result in the Plan becoming out of date should it be Made. The main implications are likely to be:

- i. Support for Strategic Growth: The consultation draft sets out that Neighbourhood plans may be explicitly required to support the wider strategic policies of the local area. A new policy (PM5) draft states they must not propose less development than what is already set out in the wider development plan.
- ii. Protection Thresholds: The consultation draft sets out that protection for NPs against the "tilted balance" (the presumption in favour of sustainable development) is retained only for plans less than five years old that contain specific housing allocations sufficient to meet identified needs. If a plan lacks allocations, even a tightly drawn settlement boundary may not prevent development in areas lacking a five-year housing land supply.

2.6 On 25 March 2026 sections 98 and 99 of the Levelling-up and Regeneration Act 2023 came into force, by virtue of The Levelling-up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026, which were made on 2 March 2025.

2.7 Sections 98 and 99 amend the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning Act 1990 in respect of the legal compliance and the basic conditions requirements.

2.8 In summary, the further legal compliance requirements are as follows:

- so far as the qualifying body considers appropriate, and having regard to the subject

matter of the plan, the plan must be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change; and

- so far as the qualifying body considers appropriate and having regard to the subject matter of the plan, the plan must be designed to take account of any local nature recovery strategy under section 104 of the Environment Act 2021 that relates to all or

part of the neighbourhood plan area.

2.9 The basic condition requiring a neighbourhood plan to be in general conformity with the strategic policies in the development plan has been replaced with a basic condition that requires that the making the neighbourhood plan must not result in the development plan providing less housing than would have been provided if the neighbourhood plan had not been made.

2.10 In the light of the above I can summarise my findings as follows:

1. I find the Norton St Philip Neighbourhood Development Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.
2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Norton St Philip Neighbourhood Development Plan go to Referendum.
3. I have read the Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Norton St Philip Neighbourhood Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.
4. I also find that the additional period of consultation requested to address the changes to the Basic Conditions and legal requirements introduced by S98 and S99 of the levelling Up and Regeneration Act (LURA) which came into force on the 25 March 2026 was conducted appropriately.
5. I find that the Norton St Philip Neighbourhood Development Plan can, subject to the recommended modifications proceed to Referendum.
6. At the time of my examination the Development Plan comprised the adopted Mendip District Council Local Plan 2014-2029 together with some saved policies from the previous Mendip District Local Plan 2002 and Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011. None of the 2002 Local Plan saved policies are relevant for Norton, but the Joint Structure Plan saved Policy 6 defining the Bristol/Bath Green Belt is relevant to Norton St Philip as much of the Parish apart from the village of Norton is within it. The Local Plan Part 2 replaced the saved Policy with a new policy, DP26.

SECTION 3

3.Introduction

3.1. Neighbourhood Plan Examination.

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

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

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

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

The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I did not require clarification. This additional information is publicly available on the Somerset Council website and covered in my report within the relevant policy.

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

The examiner is required to check whether the neighbourhood plan:

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

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

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

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

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

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

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

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

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

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004:

- The Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect- the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

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

1. Has regard to national policies and advice contained in guidance issued by the Secretary of State;

2. Contributes to the achievement of sustainable development;
3. The making of the Neighbourhood Development Plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made;
4. The making of the neighbourhood development plan does not breach, and is otherwise compatible with, EU obligations, and human rights legislation.
5. Any requirements imposed in relation to the Neighbourhood Development Plan by or under Part 6 of the Levelling Up and Regeneration Act 2023 (environmental outcomes reports) have been complied with.
6. Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. (Prescribed Conditions)

A further Basic Condition related to the new environmental assessment framework is commenced albeit, until such time as a completed framework for the implementation of Environmental Assessment Reports is in place, compliance with this Basic Condition cannot be assessed.

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

SECTION 4

4.The Report

4.1. Appointment of the Independent examiner

Somerset Council has appointed me as the Independent Examiner for the re-examination of the Norton St Philip Neighbourhood Development Plan with the agreement of the Parish Council.

4.2. Qualifying body

I am satisfied that Norton St Philip Parish Council is a qualifying body and entitled to submit a Neighbourhood Development Plan (NDP).

4.3. Neighbourhood Plan Area

Application for designation as a Neighbourhood Plan Area under the Neighbourhood Planning Regulations 2012 (part 2, S6) was formally designated by the former Mendip District Council on 9 April 2016.

The designated Norton St Philip Neighbourhood Area covers the whole of the Parish of and the basic conditions Statement submitted confirms there are no other Neighbourhood Plans covering the area.

4.4. Plan Period

It is intended that the Neighbourhood Development Plan will cover the period 2019 to 2029, (which corresponds with the adopted Mendip Local Plan)

4.5. Somerset Council initial assessment of the Plan (Regulation 15).

The Parish Council submitted the draft Norton St Philip Neighbourhood Development Plan to Somerset Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations on 13 November 2024. Somerset Council made an initial assessment of the Norton St Philip Neighbourhood Development Plan and the supporting documents and is satisfied that these comply

with the specified criteria.

4.6 Site Visit

I carried out an unaccompanied site visit on the 31 May 2026 to familiarise myself with the Neighbourhood Plan Area.

4.7. The Consultation Process

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

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

- (a) It contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- (b) It explains how they were consulted; (c) It summarises the main issues and concerns raised by the persons consulted; and
- (d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed neighbourhood development plan.

Examination of the documents and representations submitted in connection with this matter have led me to conclude that the consultation process was thorough, well conducted and recorded.

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

I am satisfied that the consultation process was carried out robustly, that the community were aware of the process and had the opportunity to comment at the appropriate stages and that the Consultation Statement as submitted meets the required standard.

4.8. Regulation 16 consultation by Somerset Council and record of responses.

Somerset Council placed the Neighbourhood Development Plan out for consultation under Regulation 14 August – 26 September 2025.

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

4.9 Additional consultation

On 25 March 2026 sections 98 and 99 of the Levelling-up and Regeneration Act 2023 came into force, by virtue of The Levelling-up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026, which were made on 2 March 2025.

As the Norton St Philip Neighbourhood Plan was in examination on that date, I decided in the interests of natural justice to provide an opportunity for interested parties to comment on the impact of these changes on the Plan.

I therefore requested that Somerset Council place a notice on their website advising that the anyone with an interest in the examination could comment on the implications of the legal compliance and Basic conditions changes outlined above .

It was made clear that there was no need for respondents to repeat representations that had already been made in relation to any other matters (since the Regulation 16 representations stand as submitted). Similarly, it was not an opportunity to raise new matters that did not relate to these legal points.

A period of 3 weeks was provided to submit comments and Somerset Council contacted those who made representations at Regulation 16 to make them aware of this additional consultation.

I am satisfied that the consultation process was carried out as requested and I have taken into consideration the consultation responses received where appropriate.

4.10.Compliance with the Basic conditions

A Basic Conditions Statement was produced for the Neighbourhood Development Plan. The purpose of this statement is to set out in detail how the Neighbourhood Development Plan, as submitted meets the basic conditions. It is the Examiner's Role to take this document into consideration but also take an independent view as to whether or not the assessment as submitted is correct.

Due to the coming into force of S99 of LURA on 25 March 2026 there are new basic condition requirements.

The basic condition which required that the neighbourhood plan be in general conformity with the strategic policies contained in the development plan for the area has been replaced with the following:

- the making of the neighbourhood development plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made.

A further basic condition related to the new environmental assessment framework is commenced albeit, until such time as a completed framework for the implementation of Environmental Assessment Reports is in place, compliance with this basic condition cannot be assessed.

As a result of these changes, I have to determine whether the Neighbourhood Development Plan:

1. Has regard to national policies and advice contained in guidance issued by the Secretary of State;
2. Contributes to the achievement of sustainable development;
3. The making of the Neighbourhood Development Plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made;
4. The making of the neighbourhood development plan does not breach,

and is otherwise compatible with, EU obligations, and human rights legislation.

5. Any requirements imposed in relation to the Neighbourhood Development Plan by or under Part 6 of the Levelling Up and Regeneration Act 2023 (environmental outcomes reports) have been complied with.
6. Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. (Prescribed Conditions)

4.11 Documents brought to my attention by Somerset Council for my examination included:

(a) The Norton St Philip Neighbourhood Development Plan:

This is the main document, which includes the policies developed by the community.

(b) The Consultation Statement:

This is a statement setting out how the community and other stakeholders have been involved in the preparation of the Norton St Philip Neighbourhood Development Plan and is supported by an evidence base, which arose from the consultation.

(c) Basic conditions Statement.

This is a statement setting out how Neighbourhood Development Plan Steering Group considers that the Neighbourhood Development Plan meets the Basic conditions. This statement also includes the screening report for the Strategic Environmental Appraisal and Habitats Regulations Assessment and addresses how the plan contributes to the achievement of sustainable development. The Basic conditions Statement was written prior to the coming into force of Sections 98 and 99 of LURA and therefore does not address the new basic conditions or legal compliance requirements directly.

4.12 Comment on Documents Submitted

As stated previously a short consultation period was conducted to allow anyone with an interest in the Plan to make representation on the issues raised by the introduction of Sections 98 and 99 of LURA. A total of 3 responses were received to this additional period of consultation the most relevant being from the Parish Council and Lochailort Investments Limited. Somerset Council did not provide a response. Lochailort Investments Limited made reference to a number of issues in their response not directly related to the subject of the consultation. On the matter of S98 and S99 they had the following response:

"Turning to sections 98 and 99 of the Levelling-up and Regeneration Act 2023 and (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026, which were made on 2 March 2025, relating to neighbourhood plans. There is now a legal requirement that, "So far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change; and So far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must be designed to take account of any local nature recovery strategy under section 104 of the Environment Act 2021 that relates to all or part of the neighbourhood plan area."

With regard to climate change, whilst Policy 7 contains a number of positive environmental aspirations, the Plan as a whole will need to demonstrate compliance with the amended statutory requirement introduced through sections 98 and 99 of the Levelling-up and Regeneration Act 2023.

In particular, the legislation now requires that neighbourhood plans should, where appropriate, be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change.

It is considered that further work to the Neighbourhood Plan is required in order satisfy the amended legal compliance requirements regarding climate change and additional evidence, policy wording and supporting justification is now required including in relation to carbon reduction, sustainable movement patterns, energy efficiency and climate resilience."

The response does not make any specific response to the impact of the introduction of the new Basic Condition.

The full response is available to view on Somerset Council's website.

The Parish Council responded as follows:

"In summary, the Parish Council considers that the draft plan:

- is appropriately designed to secure that the development and use of land in the neighbourhood area contributes to the mitigation of, and adaptation to, climate change;*
- appropriately takes account of the Somerset local nature recovery strategy, with the draft plan's policies and designations tallying well with the identified priorities and measures proposed in and around the neighbourhood plan area in the LNRS; and*
- would not result in the development plan proposing that less housing is provided by means of development taking place than if the neighbourhood development plan were not to be made; it is in fact likely to facilitate an increase in the total provision of new housing in both the neighbourhood area in particular and the wider area of the local planning authority as a whole."*

The full response is available to view on Somerset Council's website.

I have taken these responses into consideration in my examination and am satisfied that subject to my proposed modification the Norton St Philip NDP does meet the new requirements as set out in S98 and S99 of LURA. I set out my reasoning on these matters in comment on the relevant policies in the policy section of my report.

I have carefully considered the contents of these representations in recommending the modifications set out in the policy section of my report.

I am satisfied having regard to these documents and to the material change in circumstances arising from Sections 98 and 99 of LURA and other relevant documents, policies and legislation that the Norton St Philip Neighbourhood Development Plan does, subject to the recommended modifications, meet the revised Basic conditions.

4.10 Planning Policy

4.10.1. National Planning Policy

National Policy guidance is in the National Planning Policy Framework (NPPF). In December 2024(as updated Feb 2025) the Government issued a new NPPF which

made changes to National Policy in a number of areas, most significantly policy relating to housing. Annex1 of the NPPF 2024 deals with implementation and whilst paragraph 231 states:

"The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this Framework has made."

Paragraph 239 states:

"For neighbourhood plans, the policies in this Framework will apply for the purpose of preparing neighbourhood plans from 12 March 2025 unless a neighbourhood plan proposal has been submitted to the local planning authority under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended) on or before the 12 March 2025."

Therefore, at the time of my examination of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) December 2023.

However , as set out in paragraphs 2.3 and 2.4 of my report there has been a significant change in circumstances arising from the new standard method for calculating housing need introduced in the NPPF 2024(as amended February 2025).

To meet the basic conditions, the Plan must have "regard to national policy and advice".

Paragraph 29 states:

"Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies."

The Neighbourhood Development Plan does not need to repeat national policy, but to demonstrate it has taken them into account.

I have examined the Norton St Philip Neighbourhood Development Plan, taking into consideration significant changes in circumstance and consider that, subject to modification, the plan does have "regard for National Policy and Advice" and

therefore the Plan, subject to modification does meet the basic conditions in this respect.

4.10.2. Local Planning Policy- The Development Plan

Norton St Philip lies within the area previously covered by Mendip District Council and now covered by Somerset Council. The relevant development plan is comprised of the adopted Mendip District Council Local Plan 2014-2029 together with some saved policies from the previous Mendip District Local Plan 2002 and Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011. None of the 2002 Local Plan saved policies are relevant for Norton St Philip, but the Joint Structure Plan saved Policy 6 defining the Bristol/Bath Green Belt is relevant to Norton St Philip as much of the Parish apart from the village of Norton is within it. The Local Plan Part 2 replaced the saved Policy with a new policy, DP26.

4.10.3 Prior to the coming into force of S99 of LURA , to meet the Basic conditions, the Neighbourhood Development Plan had to be in “general conformity” with the strategic policies of the development plan. the Basic Conditions Statement was prepared prior to S 99 of Lura and therefore addresses the original Basic Condition.

For completeness I can confirm that I am satisfied that the Norton St Philip NDP is in conformity with the strategic policies of the current development plan

4.10.4 Neighbourhood Plans should only contain non-strategic policies. The NPPF December 2023 states:

“Non-strategic policies

28. non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver

sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

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

I have considered the Strategic policies of the development plan and the policies of the Norton St Philip Neighbourhood Development Plan and consider that, subject to the recommended modifications only contains non-strategic policies.

4.11. Other Relevant Policy Considerations

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

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

Somerset Council issued a screening report in August 2023, concluding that the plan could have significant environmental effects, primarily because it would include an allocation in a sensitive heritage location and accordingly a full SEA would be required. Natural England, the Environment Agency and Historic England were consulted as part of the screening process.

That Strategic Environmental Assessment was carried out by consultants AECOM and their Environmental Report was dated August 2024. That assessment followed the usual methodology. In terms of the assessment of reasonable alternatives, it concluded that in view of the strong community support for the redevelopment of the Bell Hill Garage, there was no reasonable alternative to the allocation of that site, or the level of growth proposed through the neighbourhood plan. The plan was appraised against the environmental objectives in the SEA Framework and

concluded that there were in the main neutral effects on the themes apart from possible landscape effects from unidentified exception sites that could be permitted under Policy 5.

The District Council, as the competent authority, issued a screening report in respect of the current submission version of the plan under the Habitats Regulations, in August 2023. This concluded that an HRA would be required. AECOM were instructed to prepare a shadow assessment to submit to Somerset Council. This considered the impact on the Bath and Bradford on Avon SAC, Mendip Woodlands SAC, Salisbury Plain SAC and SPA and Mells Valley SAC, and looked at impacts through functionally linked land, atmospheric pollution and recreational pressure.

It concluded that a single impact pathway (loss of functionally linked land) could potentially have a significant effect on two bat SACs (Bath and Bradford on Avon SAC and Mells Valley SAC) and hence an Appropriate Assessment would be required. That Appropriate Assessment concluded that because the Local Plan contains Policy DP6: Bat Protection which would ensure that development must provide the information that will demonstrate that development would not adversely affect the integrity of the SACs, no significant impact would result as a result of the neighbourhood plan. However, the shadow HRA did recommend that the issue be highlighted in the supporting text and cross referencing the need to comply with the local plan and the SAC guidance for developers. The Shadow HRA had been amended to take account of the comments of the Council's ecologist. Natural England were consulted on the final version and confirmed it agreed with its conclusions.

Somerset Council confirmed, by letter dated 16 May 2025 that the Shadow HRA published by AECOM on behalf of Norton St Philip Parish Council was accepted as also constituting the Appropriate Assessment prepared on behalf of Somerset Council as Competent Authority under the Conservation of Species and Habitats Regulations 2017 as amended.

Natural England confirmed in their letter dated 8th October 2024 that they concur with the Assessment conclusions that the plan will not result in adverse effects on the European Site in question, provided mitigation measures are implemented.

Prescribed Matters

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for a Neighbourhood Development Plan in addition to those set out in the primary legislation. Being that:

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended) in relation to the examination of neighbourhood development plans.)

I am satisfied with the conclusion of the Appropriate Assessment that following modification of Policy 4 there are no likely significant effects on any European site resulting from the policies in the Plan and therefore the Prescribed Matters in this connection are met.

4.11.2 Sustainable development

The Norton St Philips NDP is accompanied by a Basic conditions Statement which sets out (in p 5.5) how the plan addresses achieving sustainable development including a sustainability matrix.

I am satisfied having regard to this document and other relevant documents, policies and legislation that the Neighbourhood Development Plan does, subject to the recommended modifications, meet the basic conditions in this regard.

European Convention of Human Rights and compliance with the Human Rights Act 1998.

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

The Basic Conditions Statement states:

The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act.

I am satisfied that the Neighbourhood Development Plan, subject to modification meets the basic conditions on EU obligations.

4.11.3 Excluded development

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

4.11.4 Development and use of land

I am satisfied that the Neighbourhood Development Plan covers development and land use matters.

4.12 Neighbourhood Development Plan Policies

General comments

Planning Guidance on preparing neighbourhood plans and policies is clear, it states:

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

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

should be clearly identifiable. For example, set out in a companion document or annex.”

In order to provide clarity and to ensure that the policies in the Neighbourhood Plan meet the basic conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where:

- i. Policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.
- ii. A policy has not been drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.
- iii. A policy doesn't meet the Basic Conditions and/or legal requirements.

The details of these modifications are set out within my comments on the related policies. My comments on policies are in blue with the modified policies in red.

I have received representation regarding whether or not the Plan has had adequate regard for the NPPF 2024 (updated February 2025). As stated in my summary the NPPF 2024 made transitional arrangements for the examination of Neighbourhood Plans and this Plan has been examined under the provisions of the NPPF 2023. However, as a result of significant changes in circumstance detailed throughout my report subject and the indicative housing figure supplied by Somerset Council in their housing statement , I am satisfied that the Neighbourhood Plan subject to modification addresses the uplifted housing target.

Where I have recommended modifications to the order of policies or deleted a policy the report should be updated to reflect this.

4.12.1 The Neighbourhood Plan Vision, Aims, Objectives and Policies

The Vision for Parish

“To maintain the special character and built heritage of the Parish of Norton St Philip while promoting its development as a compact and sustainable community.”

Objectives

- Encourage sustainable housing development within the village settlement boundary
- Ensure that the location, design and scale of any housing development is managed in order to maintain the character and heritage of the village
- Identify, protect and enhance the village's key green spaces and recreational facilities
- Support people with a local connection who wish to remain within or return to the community
- Promote energy efficient buildings and increasing resilience to climate change
- Maintain the rural nature of the Parish and the Green Belt within it

COMMENT

I am satisfied that the NDP Vision and objectives were developed from the consultation process and that the policies within the plan reflect the vision and strategic objectives.

NEIGHBOURHOOD PLAN POLICIES

Policy 1: Development within the Settlement Boundary of Norton St Philip

Proposals for new development on sites within the settlement boundary of Norton St. Philip as defined on Figure 4 will be supported, where the proposals take account of and satisfy the criteria set out in the Policies in this Plan and the adopted Mendip Local Plan as well as the guidance contained in adopted Supplementary Planning Documents.

COMMENT

I have received detailed representation challenging whether or not the Plan meets the basic conditions in relation to housing provision, what the housing figure should be for Norton St Philip and how that should be tested. Somerset Council have confirmed that the due to the length of time since adoption of the Mendip Local Plan and the lack of a demonstrable 5 year land supply, the

housing policies of the development plan are out of date. In this situation there is a requirement for the neighbourhood plan group to either provide a housing need figure themselves or ask the LPA to do so. When this Plan was previously examined no indicative housing figure was available, however Somerset Council have now provided an indicative housing figure, this taken together with the short period of time the Plan if Made has left to run would on my planning judgement seem reasonable.

As set out earlier in my report there is no longer a basic condition requiring the Norton St Philip NDP to be in general conformity with the strategic policies of the development plan. This has been replaced by a requirement to ensure that:

"- the making of the neighbourhood development plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made."

There is no requirement for Neighbourhood Plans to include site allocations. Therefore, in simple terms where a Neighbourhood Plan does not make site allocations sufficient to meet the indicative level of housing identified by the LPA it should not include policies which would restrict or frustrate the delivery of that number of homes.

Somerset Council have provided an indicative figure of 15 dwellings for the 4 years remaining of the Neighbourhood Plan period. Whilst I accept that this figure has not been tested at local plan examination or adopted Somerset Council have stated that :

"The indicative figures are for the period from 2025 onwards but provide a consistent approach ahead of consulting on a revised settlement hierarchy and options for the distribution of housing development.

This approach is based on modelled housing need at a Parish level over the Somerset Plan Period less current allocations and commitments from 1st April 2025. This approach is considered in alignment with the NPPF 2024 and draft

NPPF at consultation."

The government's Planning Practice Guidance states that where strategic policies do not set a housing requirement for the neighbourhood area, the local planning authority should provide an indicative figure if requested, and that figure should be tested at the neighbourhood plan examination, rather than being treated as fixed or binding. I must therefore assess whether the neighbourhood plan's housing policies are justified by the available evidence and satisfy the basic conditions, rather than simply checking whether the plan exactly matches the indicative number. In testing the indicative housing figure, I have asked myself the following questions:

1. Is the indicative figure supported by a transparent methodology?

I am satisfied that the indicative figure. has been derived appropriately:

- It is based on evidence provided by the local planning authority.
- It is consistent with the strategic approach in the local plan or emerging plan.
- The methodology been explained clearly and is the methodology being followed in preparing the housing requirement for the emerging Somerset local Plan.

2. Does the neighbourhood plan make appropriate provision in light of that figure?

Whilst the Plan was prepared in the absence of an indicative housing figure the proposed allocation in Policy 4, does make provision for about 12 dwellings. However due to the granting of planning permission for the Bell Hill Garage site, on 19/5/25 for 9 dwellings, the yield from that site has been counted by Somerset Council as committed therefore still resulting in a shortfall of 15 units. Whilst not making any other allocations the Plan does support the provision of Rural Exception sites for affordable housing to meet local housing need along with village and rural windfalls and a consent for 5 units granted in the village prior to 2025 which could meet this shortfall.

3. If the plan proposes significantly more or fewer homes than the indicative figure, is there clear planning evidence to justify the difference?

Whilst there is no accepted definition of significant, I would contend that the Plan does not propose significantly fewer homes as there is a policy supporting the delivery of homes on rural exception sites. In addition, any concerns related to this issue can be addressed through policy modification. It is also important to acknowledge that the time remaining for the Plan period is limited.

4. Would the plan undermine the strategic planning of the wider local authority area?

As the indicative housing figure has been prepared by the LPA following a methodology being used across the Somerset Council area for the preparation of the new local plan, I am satisfied that the Plan can be modified to ensure that it will not undermine the strategic planning of the wider local authority area.

In examining the Plan, I must ensure that the Plan meets the basic conditions. In respect of the issue of housing, for this Plan I am particularly focused on deciding whether or not in my planning judgement, the Plan:

- has regard to national policy.
- the making of the neighbourhood development plan would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made.

Having regard for national policy does not mean that a neighbourhood plan must follow every statement in national policy to the letter. Instead, it means that the qualifying body must demonstrate that national planning policy has been properly considered and taken into account when preparing the plan.

I have considered whether the plan has had proper regard to national policy by asking:

i. Does the plan positively support sustainable housing growth?

I am satisfied that. the Plan does positively support sustainable housing growth demonstrated by the site allocation in Policy 4, Policy 5 supporting Rural Exception sites and in general with support for good design and mitigating climate change.

ii. Has it considered the indicative figure and the evidence behind it?

The indicative housing figure was not provided until the Plan was in re-examination however, I consider that with modification the policies in the Plan are flexible enough not to preclude development to meet this shortfall.

iii. Are any lower or higher housing numbers justified by evidence such as environmental constraints or additional suitable sites?

The Plan does recognise that there are various constraints affecting the potential for growth in the Parish, including landscape character, heritage, environmental quality and the impact of the Green Belt designation. The situation may change significantly at the end of the Plan period or when the new Somerset Local Plan is adopted. I anticipate that should this Plan proceed to referendum and be made it will be necessary to commence an immediate review. I understand that the neighbourhood plan group are anticipating the need to meet further future housing need by commencing a call for sites process. I must however consider the Plan before me.

iv. Does the plan still contribute to meeting housing needs?

I am satisfied that the Plan does, through the housing policies contribute to meeting housing need.

I am satisfied that subject to modification the policies in the Plan would meet these tests and have properly considered both the National Planning Policy Framework and the Planning Practice Guidance on neighbourhood planning, which emphasise that indicative housing figures are evidence to inform the plan and are subject to scrutiny through the independent examination process, rather than being binding housing targets.

I am satisfied, having reviewed the housing statement provided by Somerset Council that there is a potential housing shortfall for the neighbourhood plan area over the plan period. This has been assessed by Somerset Council as 15 dwellings. I accept that this shortfall could be recovered through rural exception sites, but this provision is uncertain.

I have to consider whether the policy for establishing a settlement boundary would effectively prevent any additional development required to meet the uplift in housing shortfall. A settlement boundary is not automatically incompatible with a housing shortfall. A neighbourhood plan does not necessarily have to allocate the full indicative figure if there are sound planning reasons not to do so. The indicative figure is evidence to inform the plan, not an automatic requirement that must always be achieved.

However, the Plan should avoid creating the impression that the settlement boundary is designed to prevent future housing growth. A policy which has the effect of preventing development outside the boundary would not meet the basic conditions if there is unmet housing need. A settlement boundary policy is possible, but the Plan must clearly justify why the housing shortfall exists and ensure that the boundary is not an unjustified restriction on sustainable development reflecting evidence about settlement character, landscape, infrastructure and environmental constraints rather than being used simply to limit growth.

I have carefully considered the wording of Policies 1 and 2 and have concluded that to ensure there is sufficient flexibility in the policies to meet the identified shortfall during the plan period whilst still acknowledging that there are various constraints to development in the Parish the I recommend that Policy 1 and Policy 2 are combined and the new policy should, in order to meet the basic conditions, be modified as follows:

Policy 1: Settlement Boundary

The Settlement Boundary identified on the Policies Map defines the area within which development will normally be supported, subject to compliance with relevant policies in the Development Plan.

Land outside the Settlement Boundary is designated as countryside where development will be restricted to uses that require a rural location or are otherwise supported by the Development Plan.

Notwithstanding the above, where monitoring demonstrates that the neighbourhood plan housing requirement is unlikely to be met during the plan period, or where Somerset Council identifies a housing land supply shortfall that materially affects the neighbourhood area, proposals for residential development on land immediately adjoining the Settlement Boundary will be supported where all of the following criteria are met:

- the site is contiguous with the Settlement Boundary and is well related to the existing built form of the settlement;**
- the scale of development is proportionate to the role and character of the settlement;**
- the proposal would not result in unacceptable harm to the landscape, the setting of the settlement, heritage assets, biodiversity, best and most versatile agricultural land, or residential amenity and is in accordance with national policy in relation to the Green Belt;**
- safe and suitable access can be achieved and the development is or can be adequately served by infrastructure and local services;**
- the proposal represents a logical rounding off or consolidation of the settlement rather than isolated or fragmented development; and**

- the development would contribute to addressing the identified housing shortfall without undermining the overall spatial strategy of the Development Plan.

Development under this policy should be limited to the scale reasonably necessary to assist in meeting the identified housing requirement.

In addition, the supporting text for the new combined policy should be modified to reflect the modified policy and the significant change in circumstances that have arisen as the result of changes to national policy and the introduction of S99 of LURA, including the following:

Supporting Text

The Settlement Boundary defines the area where development is expected to take place during the plan period. It has been drawn to include the existing built form of the settlement together with sites allocated for development within this Neighbourhood Plan and the Development Plan. The purpose of the boundary is to provide certainty for the community, landowners and developers by distinguishing between the settlement, where development is generally appropriate, and the surrounding countryside, where development should be more carefully controlled.

The countryside surrounding the settlement makes an important contribution to its rural character, landscape setting, biodiversity and historic environment. Development outside the Settlement Boundary will therefore only be supported where it is consistent with the Development Plan and national planning policy, also having regard for the Green Belt designation within the Parish.

The Neighbourhood Plan seeks to meet the identified housing requirement for the plan area through the allocation and policies contained within the Plan. However, the Plan has also been prepared to remain effective throughout the plan period.

For this reason, Policy 1 includes a limited degree of flexibility to reflect the

shortfall in housing numbers identified by Somerset Council and arising from changes in national policy and the requirements of S99 of LURA. The policy enables additional housing development to be considered on land immediately adjoining the Settlement Boundary where there is clear evidence that the housing requirement for the neighbourhood area is unlikely to be met or where Somerset Council identifies a housing land supply shortfall that materially affects the neighbourhood area.

This flexibility is not intended to create opportunities for unrestricted expansion of the settlement or to undermine the role of the Settlement Boundary. Rather, it provides a proportionate contingency mechanism to help ensure that housing needs can continue to be met in a sustainable manner should circumstances change during the plan period.

Any proposal brought forward under this part of the policy will be expected to demonstrate that it represents a logical extension to the settlement, is proportionate to its size and function, and can be accommodated without causing unacceptable harm to landscape character, heritage assets, biodiversity, residential amenity, highway safety or infrastructure capacity. Development should reinforce the existing pattern of the settlement and avoid isolated or piecemeal encroachment into the countryside.

The operation of this policy should be informed by the Authority's annual housing monitoring, housing land supply evidence and any relevant monitoring undertaken as part of the Neighbourhood Plan. The flexibility provided by Policy 1 is intended to be used only where there is robust evidence that additional sites are needed to assist in delivering the housing requirement during the plan period.

Policy 2: Development within the Rural Areas beyond the Defined Settlement Boundary

Development proposals on sites within the rural areas beyond the Defined Settlement Boundary of Norton St. Philip and not within the designated Green Belt, as shown on Figure 6, will not be supported unless such proposals satisfy the

requirements of policies in this Plan and the adopted Mendip Local Plan. National Green Belt policy applies to the designated Green Belt within the Plan area.

COMMENT

In accordance with my comment above this policy should be combined with Policy 1.

Policy 3: Housing Development

Proposals for new housing development in the Plan area will only be supported where the proposals comply with all other relevant policies in this Plan and the adopted Mendip Local Plan.

COMMENT

I agree with the previous examiner's conclusion that :

"this policy is unnecessary and does not add to the existing policy framework for the consideration of planning applications"

I therefore recommend that this policy is deleted.

Policy 4: Housing Allocation Site Bell Hill Garage

The following site in Norton St Philip, as defined on Figures 8 & 9 is allocated for residential development of about 12 new dwellings in line with the development briefs for the site in Appendix 1. Bell Hill Garage site.

The site comprises areas of previously developed land and is well suited to residential development close to the centre of the village. This is subject to the need for the proposals to conserve and if possible, enhance the Conservation Area and comply with the guidance contained in the Village Character Assessment and other relevant policies in both this Plan and LPP1.

The site is within both the Mells Valley and Bath and Bradford on Avon SAC Consultation zones. Development proposals are required to accord with the Mendip

District Council Mells Valley and Bath and Bradford on Avon “Guidance on Development” (2019).

The dwelling mix should be predominately of 2 and 3 bedroom homes.

A small number of flats may be suitable at the southern part of the site adjacent to Bell Hill in the Close Terraced Cottage area defined in the Village Character Assessment.

The proposed development should include an appropriate proportion of affordable housing units in line with the requirements of Policy DP11 of the Mendip Local Plan.

COMMENT

On the 19 May 2025, permission was granted for the erection of 9 dwellings on the site of Bell Hill Garage however development of the site has not yet commenced. I have given consideration as to whether retaining the allocation is necessary and effective in the context of the Plan as it will operate if it is made. I have concluded that it still contributes to housing delivery during the plan period however it should be noted that in providing the indicative housing figure , Somerset Council have included the yield from the site as committed, identifying a requirement for a further 15 dwellings during the remaining Plan period.

Policy 5: Rural Exception Sites

Proposals for the development of local needs affordable housing schemes on small sites adjacent to the settlement boundary of Norton St Philip, which would not otherwise be released for housing, will be supported where:

- a) there is clear evidence, supplied by the applicant, of a need within the Parish for the number and type of housing proposed;
- b) the site is adjacent to the defined settlement boundary of Norton St Philip village
- c) the proposed development satisfies other relevant policies in the adopted Mendip

Local Plan with particular regard being given to its integration into the form and character of the settlement and its landscape setting;

d) the appropriate legal agreements are entered into for the affordable housing with Somerset Council, to ensure that all dwellings will remain available for affordable housing for local need as defined in Appendix 3, in perpetuity, and that the necessary management of the scheme can be permanently secured;

e) the site is not subject to any other overriding environmental or other planning constraints;

f) the total of all proposed sites is not to exceed 5% of the Parish housing stock;

g) the proposed development has the support of the Parish Council.

Affordable Housing is as defined in Annex 2 of the NPPF.

The inclusion of market housing will be supported where any such scheme meets all the criteria in the preceding parts of this policy, and:

a) demonstrates, through detailed financial appraisal, that the scale of the market housing component is essential for the successful delivery of the development.

b) ensures no additional subsidy for the scheme and its affordable housing delivery is required.

c) that the market and affordable housing are not distinguishable in design quality.

COMMENT

The definition of Rural Exception Sites as set out in Annex 2 of the NPPF is as follows:

"Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion

of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding."

This policy does not need to repeat elements of this definition and cannot seek to introduce additional constraints. For clarity and to meet the Basic conditions, the policy should be modified as follows:

Policy 4: Rural Exception Sites

Proposals for the development affordable housing on rural exception sites will be supported where:

- a) there is clear evidence, supplied by the applicant, of a need within the Parish for the number and type of housing proposed;**
- b) the site is well related to Norton St Philip village**
- c) the proposed development satisfies other relevant policies in the development plan with particular regard being given to its integration into the form and character of the settlement and its landscape setting;**
- d) the site is not subject to any other overriding environmental or other planning constraints;**
- e) that the market and affordable housing are not distinguishable in design quality.**

Policy 5: High Quality Design

Proposals for new development within the Plan area should promote high quality design that follows the relevant guidelines set out in the Norton St. Philip Character Assessment and where appropriate, in the Conservation Area Appraisal.

Development of new buildings or extensions to existing buildings must complement the existing character of the surrounding area in terms of scale, massing, building style and height.

Landscaping and high-quality public realm areas must be an integral part of the design and layout of new housing developments.

Where relevant, development proposals should satisfy the following criteria through:

- 1) being of a scale, layout, design and appearance that is compatible with the character and density of the surrounding area;
- 2) not having unacceptable adverse impacts upon residential amenity in the vicinity of the site;
- 3) not resulting in unacceptable harm to or the loss of public or private open spaces that contribute positively to the character of the local area (including residential gardens);
- 4) incorporating safe and suitable access for pedestrians and vehicles in accordance with the relevant policies and standards of Somerset Council as Highways Authority;
- 5) safeguarding and, where appropriate, enhancing existing Public Rights of Way in the vicinity of the site, in order to provide sustainable transport choices for new developments;
- 6) addressing any potential requirement for substantial new infrastructure or other facilities to support the development;
- 7) avoiding harm to the significance and/or setting of both designated and non-designated heritage assets (including the designated Conservation Area as shown on Figure 5).

COMMENT

This policy contains repetition and for clarity should be modified as follows:

Policy 5: High Quality Design

Proposals for new development within the Plan area should promote high quality design that follows the relevant guidelines set out in the Norton St.

Philip Character Assessment and where appropriate, in the Conservation Area Appraisal and will be supported where they:

- 1) Are of a scale, layout, design and appearance that reflects the character and density of the surrounding area;**
- 2) Include for new housing development high-quality landscaping and well-designed public realm that are integral components of the overall layout and design.**
- 3) Protect the residential amenity of surrounding properties;**
- 4) They conserve or enhance the character and appearance of the area and do not result in the loss of private green spaces that make an important contribution to local character, biodiversity, landscape setting or tree cover.**
- 5) Incorporate safe and suitable access for pedestrians and vehicles in accordance with the relevant policies and standards of Somerset Council as Highways Authority;**
- 6) Safeguard and, where appropriate, enhance existing Public Rights of Way in the vicinity of the site, in order to provide sustainable transport choices for new developments;**
- 7) Address any potential requirement for substantial new infrastructure or other facilities to support the development;**
- 8) Protect and, where appropriate, enhance designated and non-designated heritage assets, including the Conservation Area shown on Figure 5, ensuring that their significance and setting are conserved in accordance with national policy and the strategic policies of the development plan.**

Policy 6: Important Green Spaces

The Green Spaces listed below and shown in Figure 13, all make an important contribution to the Green Infrastructure and to the character of the historic village of

Norton St. Philip. Development proposals within an Important Green Space should respect the reasons for their identification, as described in Appendix 2, and have regard to the relevant national planning policy and guidance and policies in the adopted Mendip Local Plan. Development that would positively enhance these spaces, such as to provide improved access and recreation, retain and enhance biodiversity, or enhance the character of the Conservation Area and its setting, will be supported.

Important Green Spaces

NSP001 Old Hopyard

NSP002 Lyde Green

NSP003 Great Orchard

NSP004 Ringwell Meadow

NSP005 Church Green

NSP006 St Philip and St James Churchyard

NSP007 Paddock adjoining Churchyard

NSP008 Church Mead

NSP009 Land to rear of The Malthouse

NSP010 Land to North of Chevers Lane

NSP011 Fortescue Fields West

NSP012 Fortescue Fields South

NSP013 Laverton or Mackley Triangle

NSP014 Shepherds Mead

NSP015 Village Green on Shepherds Mead

NSP016 School Playing Field

COMMENT

I have received a number of objections to the inclusion of the following areas:

NSP003 Great Orchard

NSP004 Ringwell Meadow

NSP009 Land to rear of The Malthouse

The policy identifies areas which are considered to contribute to the Green Infrastructure and character of the historic village of Norton St. Philip. Whilst there does seem to be some confusion in the representations received regarding the status of the land identified in this policy, I am satisfied that this policy is not seeking to designate Local Green Spaces and therefore the policy tests set out in the NPPF 2024 are not relevant.

Whilst I acknowledge the concerns raised in these objections, I am satisfied that the policy as modified, does not introduce any planning policy protection to those areas that does not already exist. In addition, land in private ownership without public access can still contribute to the landscape character and setting of the village.

It does however highlight the importance of these areas and therefore does contribute to meeting the legal requirements of S98, as follows:

- so far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change; and

- so far as the qualifying body considers appropriate and having regard to the

subject matter of the plan, the plan must be designed to take account of any local nature recovery strategy under section 104 of the Environment Act 2021 that relates to all or part of the neighbourhood plan area.

For clarity the policy should be modified as follows:

Policy 6: Important Green Spaces

The Green Spaces listed below and shown in Figure 13, all make an important contribution to the Green Infrastructure and to the character of the historic village of Norton St. Philip. Development proposals within an Important Green Space should respect the reasons for their identification, as described in Appendix 2, and have regard to the relevant national planning policy and guidance and policies in the Development Plan. Proposals that would positively enhance these spaces, such as to provide improved access and recreation, retain and enhance biodiversity, or enhance the character of the Conservation Area and its setting, will be supported.

Important Green Spaces

NSP001 Old Hopyard

NSP002 Lyde Green

NSP003 Great Orchard

NSP004 Ringwell Meadow

NSP005 Church Green

NSP006 St Philip and St James Churchyard

NSP007 Paddock adjoining Churchyard

NSP008 Church Mead

NSP009 Land to rear of The Malthouse

NSP010 Land to North of Chevers Lane

NSP011 Fortescue Fields West

NSP012 Fortescue Fields South

NSP013 Laverton or Mackley Triangle

NSP014 Shepherds Mead

NSP015 Village Green on Shepherds Mead

NSP016 School Playing Field

Policy 7: Promoting Biodiversity and Addressing Climate Change

Proposals for new development in the Plan area should:

- Seek to avoid, and if not possible mitigate or as a last resort compensate for any significant harm to biodiversity;
- Ensure that new planting and green infrastructure is robust, native and of high biodiversity value;
- demonstrate resilience to the likely impacts of climate change including increased flood risk and heat stress;
- Support the provision of electric vehicle charging points, including where appropriate in new street lighting columns;
- Include measures to prevent surface water entering the foul water sewerage system and to minimise surface water run off by:
 - incorporating sustainable drainage systems SuDS and permeable driveways and parking areas;
 - rainwater harvesting and storage features;

- tree and hedgerow planting with native species.

Individual and community proposals for renewable energy generation will be supported subject to the following criteria:

- The siting and scale of the proposed development is appropriate to its setting and position in the wider landscape and minimises potential visual impact;
- The proposed development does not create an unacceptable impact on the amenities of local residents.

COMMENT

On 25 March 2026 Sections 98 of the Levelling-up and Regeneration Act 2023 came into force, by virtue of The Levelling-up and Regeneration Act 2023 (Commencement No. 11 and Saving and Transitional Provisions) Regulations 2026, which were made on 2 March 2025.

In relation to neighbourhood plans, Sections 98 amend the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning Act 1990 in respect of the legal compliance requirements.

Section 98 introduced new legal requirements which are as follows:

- so far as the qualifying body considers appropriate, and having regard to the subject matter of the plan, the plan must be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to climate change; and**
- so far as the qualifying body considers appropriate and having regard to the subject matter of the plan, the plan must be designed to take account of any local nature recovery strategy under section 104 of the Environment Act 2021 that relates to all or part of the neighbourhood plan area.**

I have received representation through the additional consultation period referred to earlier in my report , this representation states as follows:

"With regard to climate change, whilst Policy 7 contains a number of positive environmental aspirations, the Plan as a whole will need to demonstrate compliance with the amended statutory requirement introduced through sections 98 and 99 of the Levelling-up and Regeneration Act 2023.

In particular, the legislation now requires that neighbourhood plans should, where appropriate, be designed to secure that the development and use of land in the neighbourhood area contribute to the mitigation of, and adaptation to, climate change.

It is considered that further work to the Neighbourhood Plan is required in order satisfy the amended legal compliance requirements regarding climate change and additional evidence, policy wording and supporting justification is now required including in relation to carbon reduction, sustainable movement patterns, energy efficiency and climate resilience."

The Parish Council's response:

"These priorities are clearly aligned with the draft neighbourhood plan, especially Policy 6: Important Green Spaces and Policy 7: Promoting Biodiversity and Addressing Climate Change. In particular, these policies:

- emphasise the important contribution to the Green Infrastructure and to the character of the historic village of Norton St. Philip made by the Important Greenspaces, and development proposals within them should respect the reasons for their identification on which include the provision of ponds, grassland and wildlife habitat;*
- confirm that development that would positively enhance these spaces, such as to retain and enhance biodiversity or their role as important green corridors leading from the open countryside towards the village centre, will be supported;*
- seek to ensure that new planting and green infrastructure is robust, native and of high biodiversity value; and*

- *promote measures to minimise surface water run off through inter alia tree and hedgerow planting with native species.*

In these circumstances, these special policy requirements – taken together with the plan as a whole – mean that the parish council is satisfied that the plan appropriately takes account of the LNRS (notwithstanding the fact that the later was published earlier this year), with the draft Plan's policies and designations tallying well with the identified priorities and measures proposed in and around the neighbourhood plan area in the LNRS."

I am satisfied that Policy 7 meets the requirements of S98 LURA.

SECTION 5

Conclusion

1. I find that the Neighbourhood Development Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012. (As amended)
2. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.
3. The Neighbourhood Development Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Development Plans in place within the Neighbourhood Area.
4. The Strategic Environmental Assessment and Appropriate Assessment screening meet the EU Obligation.
5. The policies and plans in the Neighbourhood Development Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and guidance and would not result in the development plan for the area of the authority proposing that less housing is provided by means of development taking place in that area than if the neighbourhood development plan were not to be made. In reaching my conclusions I have been mindful that the courts have consistently treated "having regard to" as a less demanding legal test than conformity. It requires genuine and rational consideration of national policy, rather than automatic compliance. Because the NPPF itself contains policies that require planning judgment and balancing, I have exercised judgment rather than mechanically comparing the Plan against individual paragraphs of the NPPF.
6. For neighbourhood plans, the result is that my role is to determine whether the Plan, viewed as a whole, has properly taken national planning policy into account and whether any departures are supported by sound planning reasons, rather than whether the Plan reproduces or rigidly follows every

aspect of the NPPF.

7. The supporting text for policies that have been modified should be changed to reflect those modifications.
8. I therefore consider that the Norton St Philip Neighbourhood Development Plan subject to the recommended modifications meets the Basic Conditions and legal requirements and can proceed to Referendum.

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NPIERS Examiner

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22 July 2026