



**Independent Examiner's Report of the Tiverton
Neighbourhood Development Plan**



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SECTION 2

Summary

As the Independent Examiner appointed by Mid Devon District Council to examine the Tiverton Neighbourhood Plan, I can summarise my findings as follows:

1. I find the Tiverton Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.
2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Tiverton Neighbourhood Plan go to Referendum.
3. I have read the Tiverton Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.
4. I find that the Tiverton Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.
5. The Tiverton Neighbourhood Plan Area is within the area covered by Mid Devon District Council. At the time of my examination, the development plan for the area comprises of the Mid Devon Local Plan 2013-2033(adopted July 2020) and the adopted Devon Minerals and Waste Plans.

SECTION 3

Introduction

1. Neighbourhood Plan Examination.

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

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

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

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

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

The examiner is required to check whether the neighbourhood plan:

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

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

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

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

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

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

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

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

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

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

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

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements.

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

SECTION 4

4.The Report

4.1. Appointment of the Independent examiner

Mid Devon District Council appointed me as the Independent Examiner for the Tiverton Neighbourhood Plan with the agreement of the Tiverton Town Council.

4.2. Qualifying body

I am satisfied that Tiverton Town Council is the Qualifying Body.

4.3. Neighbourhood Plan Area

The application to designate the Neighbourhood Plan Area was submitted, as required by Regulation 5 of the Neighbourhood Planning (General) Regulations 2012, to Mid Devon District Council as the local planning authority on the 21st of August 2018. The Neighbourhood Plan Area was formally approved by Mid Devon District Council on 12 November 2018. The area covers the administrative boundaries of the Parish of Tiverton; the Qualifying Body have confirmed that there are no other neighbourhood plans covering the designated area.

4.4. Plan Period

The Plan identifies the period to which it relates as 2020 to 2033. Page 3 paragraph 1.10 refers to the neighbourhood plan period being 2020 – 2038, I have assumed this is an error and should be corrected.

4.5. Mid Devon District Council Regulation 15 Assessment of the Plan.

Tiverton Town Council, the Qualifying Body, submitted the plan to Mid Devon District Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended). The Council has made an initial assessment of the submitted Tiverton Neighbourhood Plan and the supporting documents and is satisfied that these comply with the specified

criteria.

4.6. The Consultation Process

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

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 (as amended):

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

(b) It explains how they were consulted;

(c) It summarises the main issues and concerns raised by the persons consulted; and

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

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

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

4.7. Regulation 16 consultation by Mid Devon District Council and record of responses.

Mid Devon District Council placed the Tiverton Neighbourhood Plan out for the 6-week consultation period under Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended) from the 10th of January 2022 to the 18th of February 2022.

A number of detailed representations were received during the consultation period, and these were supplied by the Council as part of the supporting information for the examination process. The Neighbourhood Plan Group also provided comments on the Regulation 16 responses. I considered the representations, have taken them into account in my examination of the plan and referred to them where appropriate.

4.8. Site Visit

I carried out an unaccompanied site visit to familiarise myself with the Neighbourhood Plan Area on the 6th of May 2022.

4.9. Compliance with the Basic Conditions

The Qualifying Body has produced a Basic Conditions Statement. The purpose of this statement is to set out in some detail how the Neighbourhood 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.

I have to determine whether the Tiverton Neighbourhood Plan:

1. Has regard to national policies and advice
2. Contributes to sustainable development
3. Is in general conformity with the strategic policies in the appropriate Development Plan
4. Is not in breach and is otherwise compatible with EU obligations and Human Rights requirements.
5. Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017. (Prescribed Conditions).

Documents brought to my attention by the Mid Devon District Council for my examination included:

- Tiverton Neighbourhood Plan - the main document which includes

policies developed in consultation with the community at various engagement events and workshops.

- Basic Conditions Statement - sets out how the plan meets the Basic Conditions
- Consultation Statement – sets out how the community, and other stakeholders, have been involved in preparing the Plan.

Comment on Documents submitted

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

4.10. Planning Policy

4.10.1. National Planning Policy

National Policy guidance is in the National Planning Policy Framework (NPPF). At the time of the preparation of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) July 2021 (as updated).

To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan “must be in general conformity with the strategic policies of the local plan”.

Paragraph 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.”

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

4.10.3 I have examined the plan and its policies and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Tiverton NDP, subject to minor modification does meet the Basic Conditions in this respect.

4.11 Local Planning Policy- The Development Plan

The Tiverton Neighbourhood Plan Area is within the area covered by Mid Devon District Council. At the time of my examination, the Development Plan for the area comprised of the Mid Devon Local Plan 2013- 2033(adopted July 2020).

To meet the Basic Conditions, the Tiverton Neighbourhood Plan Neighbourhood Plan must be in “general conformity” with the strategic policies of the Development Plan.

The NPPF 2021 (updated) states:

“20. Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for:

a) housing (including affordable housing), employment, retail, leisure and other commercial development;

b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);

c) community facilities (such as health, education and cultural infrastructure);
and

d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

Neighbourhood Plans should only contain non-strategic policies. The NPPF 2021(updated) 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.”

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.

The distinction between strategic and non-strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e)) When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.

Planning Policy Guidance paragraph 41-076-20140306 sets out that:

“Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective

- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic”

I have examined the Tiverton Neighbourhood Plan and consider that, subject to modification, the plan is in general conformity with the Strategic Policies of the Development Plan and does meet the Basic Conditions in this respect.

4.12. Other Relevant Policy Considerations

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

Strategic Environmental Assessment new screening report

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

A screening process was carried out by Mid Devon District Council during 2021 to determine whether a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004 was required.

Mid Devon District Council concluded that it is unlikely that any significant environmental effects will occur from the implementation of the Neighbourhood Plan, and it was considered that the NP did not require a full SEA to be undertaken.

The statutory consultees were consulted and whilst the Environment agency and Historic England agreed with this conclusion, but Natural England raised a query regarding how the Schedule 1 criteria had been considered against the plan as a whole.

MDDC carried out a re-screening of the plan and Natural England provided the following comments:

"I can confirm that in so far as our strategic environmental interests are concerned, significant environmental effects resulting from the neighbourhood plan are unlikely. We would therefore agree with the conclusion of the SEA screening report that a full Strategic Environmental Assessment would not be required."

I am satisfied with this conclusion.

Habitats Regulations Assessment (HRA)

A screening report was prepared by Mid Devon District Council in 2021 to consider whether the content of the emerging Tiverton Neighbourhood Plan required an Appropriate Assessment under the Habitats Regulation Assessment (HRA) in accordance with the appropriate EU directives and Regulations. The screening report concluded that the Neighbourhood Plan is unlikely to have significant impact on European sites and therefore does not require a full HRA to be undertaken.

I am satisfied with this conclusion and also satisfied that the prescribed conditions have been met.

4.12.2 Sustainable development

Paragraphs 7 to 14 of the NPPF (2021 as updated) identify the components of sustainable development, and how planning applications and local plans can meet these requirements.

The evidence base for the Tiverton NDP provides a Sustainability Statement which sets out how the neighbourhood plan addresses the requirement to

achieve sustainable development.

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

4.12.3 European Convention of Human Rights and to comply with the Human Rights Act 1998.

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

I am satisfied that the Tiverton Neighbourhood Plan has done so.

I am therefore satisfied that the Tiverton Neighbourhood Plan meets the Basic Conditions on EU obligations.

4.12.4 Excluded development

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

4.12.5 Development and use of land

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

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 Tiverton Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.

As I have found it necessary to modify a number of policies it may also be necessary to modify the supporting text within the plan to align with the modified policies, where this is necessary. 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.

4.13. The Neighbourhood Plan Vision, Strategic Aims and Policies

4.13.1 VISION Statement

It's 2033, and the target of net zero carbon emissions set by Tiverton Town Council in 2019 has been achieved, with changes to transport, new building, energy production and efficiency, and agriculture.

Tiverton is a great place to live, set in beautiful countryside and with access to excellent employment opportunities, schools, shops, amenities and transport links. The rural part of the parish retains scattered hamlets among highly

productive farmland supplying produce locally.

Frequent electric buses run from all parts of the parish to the centre, and to Parkway station and Exeter, and soon driverless taxis will be in place, summoned by an app. Charging point for vehicles (including e-bikes) are widely available.

There are easy off-road cycle and separate, accessible pedestrian routes into and around the town, with undercover cycle storage in the town centre, at the bus station and station, and key bus-stops. There are safe cycling routes into Exeter along the Exe Valley, and to the station. There is one parcel delivery service, using electric vehicles or drones. Mobile and fast broadband connectivity are universal.

A network of local shops ensures that people do not have to drive to buy food and household items.

The town centre is thriving, with vital services such as banks and pharmacies, but also many innovative independent shops and businesses, which together with a lively café culture make visiting the centre a real pleasure. Jewel in the crown is the pannier market, and the centre of the town hosts community events and celebrations. Most of the old town centre buildings have been renovated, with more people living above shops, so that the centre remains a safe and living place in the evening.

New homes are designed in keeping with the local character, and built by low carbon, minimal waste methods, with sustainable heating and waste-water treatment. They range in size and tenure, with a significant proportion affordable by local people, accessible for wheelchairs, with space for homeworking and adequate storage, including for bicycles, buggies, and recycling. There are green spaces for play and community growing carbon capture and flood alleviation.

Existing homes, including those owned by the Council, have high standards of insulation and have been retrofitted with sustainable heating sources and

other energy saving features.

Opportunities for employment have expanded in Tiverton, which has small starter business units, high quality light industrial and office premises and a well-educated population. Homes and energy are produced by private, public and community owned organisations. Heathcoat Fabrics remains an international innovator.

Many farms in the parish have adopted more sustainable methods of mixed farming, including an increase in growing for local markets. There are more community growing areas, both within and outside the town, building on the strong allotment heritage. Green corridors have been enhanced through the town, and areas both within and around have been carefully rewilded.

Tiverton celebrates its roots by protecting its built heritage and iconic views over the surrounding countryside. Signposted and attractive paths and cycle routes cross the town and lead into the country; the riverside walk is popular and the footbridge across the confluence of Exe and Lowman links to the Exe Valley Way. Sustainable tourism has increased, with visitors exploring local shops and historic places including the Canal, the Museum, Knightshayes Court and the surrounding area.

Residents benefit from a wide range of sports and recreation opportunities, and extensive participation in the arts completes the picture of a flourishing town and parish.

4.13.2 Tiverton Neighbourhood Plan Aims and Objectives

OBJECTIVE 1: New development in the parish is located in sustainable locations and housing prioritises locally evidenced need.

OBJECTIVE 2: All new development is of high quality – in terms of use of local sustainable materials, maximising energy efficiency and reducing flood risk – and reflects local character in terms of building style and materials.

OBJECTIVE 3: Existing homes are improved in energy efficiency by

supporting refurbishment. Changes required to bring empty homes back into use are allowed.

OBJECTIVE 4: The historic and architecturally significant built environment – in addition to the rich archaeology heritage and historic landscapes (rural and built streetscapes) is conserved and enhanced for future generations, taking opportunities to enable it to be better understood and appreciated.

OBJECTIVE 5: The biodiversity of the rural environment and open spaces within the parish are conserved and enhanced, giving opportunities for sustainable rural employment, recreational enjoyment and carbon sequestration. Tree planting, food production for the local market and rural crafts are actively encouraged and supported. Land based activities are carbon neutral by 2030.

OBJECTIVE 6: The provision of community infrastructure and local facilities is adequate to address the needs and aspirations of existing and future residents in the transition to a zero-carbon economy.

OBJECTIVE 7: Opportunities for community renewable energy generation using natural resources in the area are strongly supported and encouraged.

OBJECTIVE 8: The use of public transport (including electric buses), electric vehicles, cycling and walking are prioritised over conventional car use. There is a safe environment for pedestrians, wheelchair users, and cyclists and public transport is effectively connected to ensure free movement.

OBJECTIVE 9: Employment opportunities are enhanced by improved infrastructure, universal mobile and fast broadband connectivity and a sustainable economy. The thriving town centre has an important role and the buildings there are fully used.

4.13.3 Principles for the Tiverton Neighbourhood Plan

In delivering these objectives, the Neighbourhood Plan has identified some overarching core principles that all planning applications should demonstrate.

All development proposals must meet the TIVVY Test and:

- Tackle the climate emergency, protect the natural environment and promote sustainable living;
- Increase in access to housing, urban and rural facilities for people of all ages;
- Value our heritage;
- Ensure a **Vital** and living town and respect the special design features in our parish; and
- Yield improved health and wellbeing for all residents and visitors.

COMMENT

I am satisfied that the Tiverton NDP vision, principles objectives and themes were developed from the consultation process and that the policies within the plan reflect these.

4.13.4 TIVERTON NDP POLICIES

POLICY T1: LOCATION AND SCALE OF DEVELOPMENT

A. Development in the neighbourhood area will be focused within the settlement boundary, established through Local Plan policy and shown on the Policies Map.

B. Development proposals outside the settlement boundary will not be supported unless:

- i. they are in accordance with Mid Devon District Council Local Plan Review policies in respect of appropriate uses in the countryside; or
- ii. the development preserves or enhances the character or appearance of the area; or
- iii. where relevant, and not causing unacceptable harm to historic character or significant, the development brings redundant or vacant historic or agricultural buildings back into optimal viable beneficial re- use; or

iv. they relate to community renewable energy schemes in accordance with Policy T6 (Energy Efficiency and Design); or

v. it relates to necessary utilities infrastructure and where no reasonable alternative location is available.

C. In determining development proposals substantial weight will be given to the value of using suitable brownfield land within the settlement boundary of Tiverton for either homes or other identified needs, or to support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land with financial incentives.

COMMENT

For clarity reference to the Mid Devon Local Plan Review should be modified to:

Mid Devon Local Plan (adopted 2020)

POLICY T2: MEETING LOCAL HOUSING NEEDS

A. Other than in development designed to meet an identified specialist housing need, the mix of housing sizes, types and tenures in proposed development should, in so far as is reasonably practicable and subject to viability considerations, assist in meeting needs identified in the most recently available Strategic Housing Market Assessment and/or the Tiverton Local Housing Needs Assessment.

B. Subject to the other policies of this plan, proposals for community-led housing projects including self-build and co-operative housing will be supported.

COMMENT

I have no comment on this policy.

POLICY T3: PROVIDING LIFETIME AFFORDABLE HOUSING

A. The level and type of affordable housing to be delivered on each site will have regard to up-to-date evidence of affordable housing needs, including the current Strategic Housing Market Assessment and the Tiverton Local Housing Need Assessment and any subsequent updates.

B. At least 25% of the affordable housing units must be delivered as First Homes, with priority given to those with a local connection to Tiverton Parish. An uplift to the minimum 30% discount required upon sale will be particularly supported to address the affordability gap evidenced in the Local Housing Needs Assessment.

C. There will be a presumption that the affordable housing contribution on open market housing sites will be through the provision of affordable homes on the application site, in accordance with Policy S3 of the Mid Devon Local Plan Review, and that affordable homes should be well integrated with market housing.

D. Any development proposal which involves the provision of affordable housing at a level below that required under the terms of this policy will need to be justified by an independent viability assessment of the scheme costs and end values.

E. The affordable housing provided in pursuit of this policy for rent, discount market sales, or where public grant funding is provided towards other affordable routes to home ownership, will be made available to people in housing need at an affordable sale or rental cost for the life of the property. Any planning permission granted will be subject to appropriate conditions and/or planning obligations to secure:

- i. The amount and type of affordable housing;
- ii. That the housing will be discounted at an appropriate level to ensure it is affordable by people identified as being in housing need; and
- iii. A mechanism for the management of the new homes to ensure that the first and subsequent occupancies are restricted to people in housing need.

COMMENT

For clarity reference to the Mid Devon Local Plan Review should be modified to:

Mid Devon Local Plan (adopted 2020)

POLICY T4: CHARACTER OF DEVELOPMENT

A. Development should preserve and where practicable enhance the character area in which it is located as shown on the Policies Map and described in the Tiverton Neighbourhood Plan Design Codes for a Sustainable Town. The design of new development should take account of the local context and reflect the character and vernacular of the area, using architectural variety in form and materials. Innovation in design will be supported where this demonstrably enhances the quality of the built form in a character area.

B. As appropriate to their scale, nature and location development proposals should address the following criteria:

- i. they should make a positive contribution to the visual impact of the main highway approaches – as identified in Figure 6.1 and on the Policies Map - into the settlements.
- ii. They do not have a significantly detrimental impact on the locally significant views as set out in Policy T9 of this Neighbourhood Plan.
- iii. Development proposals affecting heritage assets – including non-designated heritage assets - either directly or indirectly, should enhance the significance and setting of the asset. This could include, where appropriate, the delivery of development that will make a positive contribution to, or better reveal the significance of, the heritage asset, or reflect and enhance local character and distinctiveness with particular regard given to the prevailing styles of design and use of materials in a local area.

Proposals are expected to be accompanied by a Heritage Statement.

C. Where development sites abut open countryside, development on the rural boundary edge should mitigate any detrimental visual impacts on the countryside. As appropriate to their scale, nature and location, this should be achieved through the siting of lower density development at the rural boundary of the site in order to provide a gradual transition from the built form to open countryside, or by other means such as through a layout that clearly minimises the visual impact of any larger buildings.

COMMENT

Neighbourhood plan policies do not need to repeat national or local planning policy, however where reference is made to national policy it is important that this reflects the actual wording of that policy and does not paraphrase it. for clarity and to meet the Basic Conditions the policy should be modified as follows:

POLICY T4: CHARACTER OF DEVELOPMENT

A. Development should conserve and where practicable enhance the character area in which it is located as shown on the Policies Map and described in the Tiverton Neighbourhood Plan Design Codes for a Sustainable Town. The design of new development should take account of the local context and reflect the character and vernacular of the area, using architectural variety in form and materials. Innovation in design will be supported where this demonstrably enhances the quality of the built form in a character area.

B. As appropriate to their scale, nature and location development proposals should address the following criteria:

i. they should make a positive contribution to the visual impact of the main highway approaches – as identified in Figure 6.1 and on the Policies Map - into the settlements.

ii. They do not have a significantly detrimental impact on the locally significant views as set out in Policy T9 of this Neighbourhood Plan.

iii. Development proposals affecting heritage assets – including non-designated heritage assets - either directly or indirectly must comply with national policy requirements including the submission of an appropriately detailed Heritage Statement. Proposals could include, where appropriate, the delivery of development that will make a positive contribution to, or better reveal the significance of, the heritage asset, or reflect and enhance local character and distinctiveness with particular regard given to the prevailing styles of design and use of materials in a local area.

C. Where development sites abut open countryside, development on the rural boundary edge should mitigate any detrimental visual impacts on the countryside. As appropriate to their scale, nature and location, this should be achieved through the siting of lower density development at the rural boundary of the site in order to provide a gradual transition from the built form to open countryside, or by other means such as through a layout that clearly minimises the visual impact of any larger buildings.

Original text with modification:

POLICY T4: CHARACTER OF DEVELOPMENT

A. Development should ~~preserve~~ **conserve** and where practicable enhance the character area in which it is located as shown on the Policies Map and described in the Tiverton Neighbourhood Plan Design Codes for a Sustainable Town. The design of new development should take account of the local context and reflect the character and vernacular of the area, using architectural variety in form and materials. Innovation in design will be supported where this demonstrably enhances the quality of the built form in a character area.

B. As appropriate to their scale, nature and location development proposals should address the following criteria:

- i. they should make a positive contribution to the visual impact of the main highway approaches – as identified in Figure 6.1 and on the Policies Map - into the settlements.
- ii. They do not have a significantly detrimental impact on the locally significant views as set out in Policy T9 of this Neighbourhood Plan.
- iii. Development proposals affecting heritage assets – including non-designated heritage assets - either directly or indirectly, **must comply with national policy requirements** ~~should enhance the significance and setting of the asset.~~ **including the submission of an appropriately detailed Heritage Statement.** This Proposals could include, where appropriate, the delivery of development that will make a positive contribution to, or better reveal the significance of, the heritage asset, or reflect and enhance local character and distinctiveness with particular regard given to the prevailing styles of design and use of materials in a local area.

~~Proposals are expected to be accompanied by a Heritage Statement.~~

C. Where development sites abut open countryside, development on the rural boundary edge should mitigate any detrimental visual impacts on the countryside. As appropriate to their scale, nature and location, this should be achieved through the siting of lower density development at the rural boundary of the site in order to provide a gradual transition from the built form to open countryside, or by other means such as through a layout that clearly minimises the visual impact of any larger buildings.

Policy T5: DESIGN OF DEVELOPMENT

Development proposals should incorporate a high quality of design, which responds and integrates well with its surroundings, meets the changing needs of local residents and minimises the impact on the natural and historic environment. In particular development proposals should demonstrate how

they have sought to address the following matters as they are appropriate to their scale, nature and location:

- i. Meeting the principles of Building for a Healthy Life unless alternative principles would otherwise result in a higher quality of design. Development proposals that would achieve the 'Building for a Healthy Life' commendation will be particularly supported.
- ii. The relevant guidance contained within the Tiverton Neighbourhood Plan Design Codes for a Sustainable Town.
- iii. The height of new building in conservation areas to be consistent with existing buildings such that they do not affect their setting. In addition to retain existing building lines, where development is set back from the pavement to create a sense of space and aid movement.
- iv. The creation of 'variety' through the use of a range of housing designs, provided that the predominant type of design reflects the character of the area.
- v. To design layouts of safe and secure dwellings that meet the requirements of 'Secure by Design' and minimise the likelihood and fear of crime.
- vi. The protection and extension of green infrastructure and green links, such as tree lines and hedgerows, in accordance with Policy T9 (Network of Green Infrastructure).
- vii. Provide off-road parking for residents, visitors and service vehicles, in accordance with Mid Devon's adopted Parking Provision in New Development SPD (2013).
- viii. The layout and design of parking provision does not adversely affect vehicular and pedestrian access and safety.

COMMENT

I have no comment on this policy.

POLICY T6: ENERGY EFFICIENCY AND DESIGN

A. Proposals which incorporate design and environmental performance measures and standards to reduce energy consumption and climate effects will be supported. Development proposals which achieve the minimum standards as set out below will be strongly supported, unless it can be demonstrated that doing so is not technically feasible or would make the scheme unviable:

Residential:

i. Energy efficiency: 19% carbon dioxide reduction improvement

against Part L (2013)³⁰ through the energy efficiency of the building and;

ii. Water: Total mains consumption of no more than 110 litres per person per day.

Non-residential and Multi-residential:

1. Major: Building Research Establishment Environmental Assessment Method (BREEAM) Excellent

B. The following sustainable design features will be strongly supported:

i. Siting and orientation of new buildings to optimise passive solar gain and providing

ii. The use of high quality, thermally efficient building materials.

iii. Incorporating on-site energy generation from renewable sources such as solar panels and ground and air source heat pumps.

iv. Reducing water consumption through the use of grey water systems.

v. Providing low carbon sustainable design and avoiding or mitigating all

regulated emissions using a combination of on-site energy efficiency measures (such as insulation and low energy heating systems), on-site zero carbon technologies (such as solar panels) and only where necessary off-site measures to deal with any remaining emissions.

vi. Providing the infrastructure for adequate electric vehicle charging

points that can be accessed by each dwelling or public building,

where new parking provision is expected to be made.

vii. Alterations to existing buildings are encouraged to demonstrate how

energy reduction has been incorporated into the design and construction.

C. The sensitive retrofitting of energy efficient measures in historic buildings will be supported, including the retrofitting of listed buildings, provided that it preserves the architectural and historic interests of these heritage assets and their settings. This could be achieved through:

i. measures to reduce heat loss, which could include secondary glazing in listed buildings with wooden windows that meet the latest relevant British standard; and/or

ii. the replacement of fossil fuel burning energy sources with electric power from renewable sources with zero air emissions locally.

D. Proposals for individual and community scale energy, for instance from hydroelectricity, solar photovoltaic panels, local biomass facilities, anaerobic digestions and wood fuel products will be supported subject to the following criteria:

i. the siting and scale of the proposed development is appropriate to its setting and position in the wider landscape; and

ii. the proposed development does not create an unacceptable impact on the amenities of local residents; and

iii. the proposed development does not have an unacceptable impact on a feature of natural or biodiversity importance.

COMMENT

This policy refers to Building Regulations standards, which fall outside the planning policy regime. In addition, whilst it is reasonable to want development to reach BREEAM Excellence standards this cannot be a requirement. For clarity and to meet the Basic Conditions the policy should be modified as follows:

POLICY T6: ENERGY EFFICIENCY AND DESIGN

A. Proposals which incorporate design and environmental performance measures and standards to reduce energy consumption and climate effects will be supported. Development proposals which achieve above standards as set out below will be strongly supported. This includes wherever possible:

Residential:

- i. Energy efficiency measures to reduce carbon dioxide outputs both in construction and operation above policy requirements; and**
- ii. Water: Total mains consumption of no more than 110 litres per person per day.**

Non-residential and Multi-residential:

1. Major: achieving Building Research Establishment Environmental Assessment Method (BREEAM) Excellent

B. The following sustainable design features will be strongly supported:

- i. Siting and orientation of new buildings to optimise passive solar gain and providing**

- ii. **The use of high quality, thermally efficient building materials.**
- iii. **Incorporating on-site energy generation from renewable sources such as solar panels and ground and air source heat pumps.**
- iv. **Reducing water consumption through the use of grey water systems.**
- v. **Providing low carbon sustainable design and avoiding or mitigating all regulated emissions using a combination of on-site energy efficiency measures (such as insulation and low energy heating systems), on-site zero carbon technologies (such as solar panels) and only where necessary off-site measures to deal with any remaining emissions.**
- vi. **Providing the infrastructure for adequate electric vehicle charging points that can be accessed by each dwelling or public building, where new parking provision is expected to be made.**
- vii. **Alterations to existing buildings are encouraged to demonstrate how energy reduction has been incorporated into the design and construction.**

C. The sensitive retrofitting of energy efficient measures in historic buildings will be supported, including the retrofitting of listed buildings, provided that it preserves the architectural and historic interests of these heritage assets and their settings. This could be achieved through:

- i. **measures to reduce heat loss, which could include secondary glazing in listed buildings with wooden windows that meet the latest relevant British standard; and/or**
- ii. **the replacement of fossil fuel burning energy sources with electric power from renewable sources with zero air emissions locally.**

D. Proposals for individual and community scale energy, for instance from hydroelectricity, solar photovoltaic panels, local biomass facilities, anaerobic digestions and wood fuel products will be supported subject to the following criteria:

i. the siting and scale of the proposed development is appropriate to its setting and position in the wider landscape; and

ii. the proposed development does not create an unacceptable impact on the amenities of local residents; and

iii. the proposed development does not have an unacceptable impact on a feature of natural or biodiversity importance.

Original text modified:

POLICY T6: ENERGY EFFICIENCY AND DESIGN

A. Proposals which incorporate design and environmental performance measures and standards to reduce energy consumption and climate effects will be supported. Development proposals which achieve **above** the ~~minimum~~ standards as set out below will be strongly supported, ~~unless it can be demonstrated that doing so is not technically feasible or would make the scheme unviable:~~ **This includes wherever possible:**

Residential:

i. **Energy efficiency measures to reduce carbon dioxide outputs both in construction and operation above policy requirements: 19% carbon dioxide reduction**

~~against Part L (2013)30 through the energy efficiency of the building and;~~

ii. Water: Total mains consumption of no more than 110 litres per person per day.

Non-residential and Multi-residential:

1. Major: **achieving** Building Research Establishment Environmental Assessment Method (BREEAM) Excellent

B. The following sustainable design features will be strongly supported:

- i. Siting and orientation of new buildings to optimise passive solar gain and providing
- ii. The use of high quality, thermally efficient building materials.
- iii. Incorporating on-site energy generation from renewable sources such as solar panels and ground and air source heat pumps.
- iv. Reducing water consumption through the use of grey water systems.
- v. Providing low carbon sustainable design and avoiding or mitigating all regulated emissions using a combination of on-site energy efficiency measures (such as insulation and low energy heating systems), on-site zero carbon technologies (such as solar panels) and only where necessary off-site measures to deal with any remaining emissions.
- vi. Providing the infrastructure for adequate electric vehicle charging points that can be accessed by each dwelling or public building, where new parking provision is expected to be made.
- vii. Alterations to existing buildings are encouraged to demonstrate how energy reduction has been incorporated into the design and construction.

C. The sensitive retrofitting of energy efficient measures in historic buildings will be supported, including the retrofitting of listed buildings, provided that it preserves the architectural and historic interests of these heritage assets and their settings. This could be achieved through:

- i. measures to reduce heat loss, which could include secondary glazing in

listed buildings with wooden windows that meet the latest relevant British standard; and/or

ii. the replacement of fossil fuel burning energy sources with electric power from renewable sources with zero air emissions locally.

D. Proposals for individual and community scale energy, for instance from hydroelectricity, solar photovoltaic panels, local biomass facilities, anaerobic digestions and wood fuel products will be supported subject to the following criteria:

i. the siting and scale of the proposed development is appropriate to its setting and position in the wider landscape; and

ii. the proposed development does not create an unacceptable impact on the amenities of local residents; and

iii. the proposed development does not have an unacceptable impact on a feature of natural or biodiversity importance.

POLICY T7: MINIMISING THE RISK OF FLOODING

A. Where the development of a site requires the application of Sustainable Drainage Systems (SuDS), such systems should be delivered within the development site unless technical reasons make this approach impracticable, in accordance with Devon County Council's guidance. SuDs should demonstrate the use of a wide range of creative SuDS solutions, for example through the provision of SuDS as part of green spaces, green roofs, permeable surfaces and rain gardens.

B. Where it is practicable to do so, SuDS provision should demonstrate how its design will enhance wildlife and biodiversity as well as minimise the impacts of flooding.

C. Development proposals should be supported by a drainage scheme maintenance plan which demonstrates a schedule of activities, access points,

outfalls and any biodiversity considerations. The maintenance plan should also include an indication of the adopting or maintaining authority or organisation and may require inclusion within a register of drainage features.

D. Where relevant, proposals should seek to daylight any culverted sections of the Town Leat and other watercourses, for flood defence and environmental purposes.

COMMENT

I have no comment on this policy.

POLICY T8: LOCAL BUILDINGS AND STRUCTURES OF MERIT AND LOCAL HERITAGE ASSETS AT RISK

A. In addition to those already identified in Mid Devon District Council's Register of Heritage Assets, the Neighbourhood Plan identifies the following heritage assets for the purpose of implementing Policy S9 of the Mid Devon Local Plan Review:

- The assets within Tiverton parish recorded in the Devon County Historic Environment Record
- The full length of The Leat
- Angel Hill streetscape
- Lowman Green streetscape
- Beechwood - former Policy Station, 2 The Avenue Tiverton Devon EX16 4HS

B. Any development proposals that would affect the character, setting or integrity of the identified local heritage assets should:

- i. be accompanied by a description of its significance in sufficient detail to allow the potential impacts to be adequately assessed; and

- ii. be sympathetic to the building or structure concerned and, where appropriate, propose its creative reuse and adaptation; and
- iii. ensure that recording and interpretation is undertaken to document and understand the asset's archaeological, architectural, artistic or historic significance; and
- iv. take a landscape-led approach, considering how the safeguarding of existing, and introduction of new, planting (trees, hedgerows etc.) to support connectivity can maximise benefits for nature and people; and
- v. otherwise respect the approach set in Policy S9 of the Mid Devon Local Plan Review.

C. A pro-active stance will be taken to any heritage assets that may be at risk. This will include working with property owners to find a use that will enable them to be put back into optimum viable use. Particular care should be taken in the Conservation Area to ensure that alterations and new buildings contribute to the enhancement of the historic environment, in accordance with the guidance set out in the Tiverton Conservation Area Appraisal.

COMMENT

For clarity reference to Policy S9 of the Mid Devon Local Plan review should be modified to:

Policy S9 of the Mid Devon Local Plan (adopted July 2020),

POLICY T9: GREEN AND BLUE INFRASTRUCTURE AND DELIVERING BIODIVERSITY NET GAIN

A. Development proposals should be designed from inception to create, conserve, enhance and manage green spaces and connective chains of green infrastructure, as identified on the Policies Maps, the delivery of a minimum 10% biodiversity net gain for local people and wildlife is required. In particular proposals that seek to improve the connectivity between wildlife

areas and green spaces, and where they accord with Policy S9 of the Mid Devon Local Plan, will be supported.

B. Development which would result in the loss of ancient woodland, aged trees, or veteran trees will not be supported.

C. Proposals for development must be supported by a biodiversity appraisal, which must demonstrate how negative impacts would be minimised and biodiversity net gain achieved.

D. Particular regard should be given to development proposals near to Tidcombe Fen SSSI, to ensure that surface-water run-off is prevented.

COMMENT

There is currently no legal requirement to provide a 10% biodiversity net gain. Although included in the Environment Act 2021 this provision will only become mandatory when the Town & Country Planning Act (TCPA) is amended and is only likely to become law in 2023.

Natural England have made representation requesting a minor modification to the policy for clarity as follows:

“we have a suggestion for a minor amendment to Policy T9. Whilst we welcome the inclusion of protective wording for Tidcombe Lane Fen SSSI, we would recommend that this is amended from ‘preventing’ surface water runoff, to wording that ensures that all drainage proposals are able to demonstrate that they will have no adverse impact on the SSSI.”

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

POLICY T9: GREEN AND BLUE INFRASTRUCTURE AND DELIVERING BIODIVERSITY NET GAIN

A. Development proposals should be designed from inception to create, conserve, enhance and manage green spaces and connective chains of

green infrastructure, as identified on the Policies Maps. Proposals should include biodiversity net gain, which as a minimum meets national policy requirements. In particular, proposals that seek to improve the connectivity between wildlife areas and green spaces, and where they accord with Policy S9 of the Mid Devon Local Plan, will be supported.

B. In accordance with national policy proposals which would result in the loss of ancient woodland, aged trees, or veteran trees will be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.

C. Proposals for development must be supported by a biodiversity appraisal, which must demonstrate how negative impacts would be minimised and biodiversity net gain achieved.

D. Particular regard should be given to development proposals near to Tidcombe Fen SSSI, to ensure that all drainage proposals are able to demonstrate that they will have no adverse impact on the SSSI.

Original text modified:

POLICY T9: GREEN AND BLUE INFRASTRUCTURE AND DELIVERING BIODIVERSITY NET GAIN

A. Development proposals should be designed from inception to create, conserve, enhance and manage green spaces and connective chains of green infrastructure, as identified on the Policies Maps. **Proposals should include biodiversity net gain, which as a minimum meets national policy requirements.**, ~~the delivery of a minimum 10% biodiversity net gain for local people and wildlife is required.~~ In particular proposals that seek to improve the connectivity between wildlife areas and green spaces, and where they accord with Policy S9 of the Mid Devon Local Plan, will be supported.

B. In accordance with national policy, ~~Development proposals~~ which would result in the loss of ancient woodland, aged trees, or veteran trees will not be

~~supported.~~ **refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.**

C. Proposals for development must be supported by a biodiversity appraisal, which must demonstrate how negative impacts would be minimised and biodiversity net gain achieved.

D. Particular regard should be given to development proposals near to Tidcombe Fen SSSI, ~~to ensure that surface water run-off is prevented.~~ **to ensure that all drainage proposals demonstrate that they will have no adverse impact on the SSSI.**

POLICY T10: LOCAL GREEN SPACES

The 30 areas as listed in paragraph 7.18 and shown in Figures 7.3 and on the Policies Map are designated as a Local Green Spaces.

Development proposals within the designated local green space will only be supported in very special circumstances.

COMMENT

During the course of my examination, I sought clarification regarding the consultation of the owners of the proposed Local Green Spaces and any representations received. It was confirmed that the known owners of the proposed LGSs were directly consulted.

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

The NPPF 2021 states:

“101. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green

areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs, and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.

102. 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), tranquility or richness of its wildlife; and
- c) local in character and is not an extensive tract of land.

103. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”

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

In addition, Neighbourhood planning guidance states:

" Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space."

Importantly, sites which are already subject to a statutory designation

such as Historic Parks and Gardens or Scheduled Ancient Monuments are already subject to high levels of protection and would not benefit from an additional local designation. Likewise, sites which fall within the curtilage of a listed building or Conservation Area do not necessarily need additional protection under this policy as their importance and contribution to a settlement must already be considered if any application falls within or in the vicinity of these sites.

Representations were received at Regulation 16:

1.Green space to the opposite of 1 – 4 College View:

Devon County Council noted that the proposed green space designation is adjacent to Bolham Road Roundabout. As design work for this improvement has not yet taken place and it is therefore not known how much of this space will be required to undertake the works. DCC are concerned that the designation of this space within the Neighbourhood Plan as green space will make the undertaking of any improvements to the roundabout very difficult. I have considered Paragraph 150 of the NPPF (2021):

"150. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
- e) material changes in the use of land (such as changes of use for outdoor

sport or recreation, or for cemeteries and burial grounds); and

f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order."

I am satisfied that the designation of 14. Green Space to the opposite of 1-4 College View will not interfere with any necessary highways works.

In addition, there was an objection with regard to:

4. Leat Street open space

9. Tomswell allotments, near Rackenford Road

Whilst an objection by an owner is not automatically a barrier to the designation of a LGS it is my role to carefully consider whether or not the objection raises issues which are relevant in the decision-making process.

I have considered the objection carefully but have concluded that as the spaces meet the tests set out in the NPPF (2021) that they can be designated.

Whilst the number of proposed LGSs in the Tiverton NDP is high I have carefully considered the evidence put before me for all the designations proposed and I find that the proposed LGSs do meet the requirements of the NPPF.

Paragraph 103 of the NPPF states that the policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraphs 147-149 detail the policy framework for development affecting the Green Belt. Paragraph 147, in particular states;

"Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."

For Clarity, the policy should be modified to reflect the requirements of the NPPF 2021 and recent caselaw (see Court of Appeal Judgement in the Case of The Queen (On the Application of Lochailort Investments Limited) and Mendip District Council Norton St Philip Parish Council 2nd October 2020) which clearly states that Local Green Space polices in neighbourhood plans should not deviate from the policy requirements of the NPPF. For clarity and to meet the Basic Conditions the policy should be modified as follows:

POLICY T10: LOCAL GREEN SPACES

The following sites are designated as Local Green Spaces as shown in Figures 7.3 and on the Policies Map:

- 1. Green space in The Avenue**
- 2. Westexe Recreation Ground off Wellbrook Street**
- 3. Lowman Green, at the bottom of Gold Street**
- 4. Leat Street open space**
- 5. Beech Road Allotments**
- 6. People's Park**
- 7. Amory Park, inc. BMX track, off Siddals Gardens**
- 8. 'Community' field on the confluence of the Exe and Lowman**
- 9. Tomswell allotments, near Rackenford Road**
- 10. Green space, off Rooks Way**
- 11. Pinnex allotments, off Park Road**
- 12. King Street Allotments**

- 13. Harrowby Allotments, Lewis Avenue**
- 14. Green Space to the opposite of 1-4 College View**
- 15. Green space at Atherton Way, Canal Hill**
- 16. Hay Park**
- 17. Cluster of green spaces within the Pinnex Moor Estate**
- 18. Cluster of green spaces within the Moorhayes Estate**
- 19. Palmerston Park estate community space**
- 20. Green space with play area at Roundhill, Cotteylands**
- 21. Adventure playground, Cowley Moor Road**
- 22. Rugby fields**
- 23. Playing field at Blackmore Road Wilcombe**
- 24. Grounds of Sunningmead Community Centre**
- 25. Green space at the end of Glebelands Road**
- 26. Narrow Lane & Howden Road green space**
- 27. Colley Stream green space**
- 28. John Street Allotments**
- 29. Elmore Allotments**
- 30. Ashley Rise Play Area**

Inappropriate development will not be supported except in very special circumstances.

Original policy text with modification:

POLICY T10: LOCAL GREEN SPACES

~~The 30 areas as listed in paragraph 7.18 and shown in Figures 7.3 and on the Policies Map are designated as a Local Green Spaces.~~

The following sites are designated as Local Green Spaces as shown in Figures 7.3 and on the Policies Map:

- 1. Green space in The Avenue**
- 2. Westexe Recreation Ground off Wellbrook Street**
- 3. Lowman Green, at the bottom of Gold Street**
- 4. Leat Street open space**
- 5. Beech Road Allotments**
- 6. People's Park**
- 7. Amory Park, inc. BMX track, off Siddals Gardens**
- 8. 'Community' field on the confluence of the Exe and Lowman**
- 9. Tomswell allotments, near Rackenford Road**
- 10. Green space, off Rooks Way**
- 11. Pinnex allotments, off Park Road**
- 12. King Street Allotments**
- 13. Harrowby Allotments, Lewis Avenue**
- 14. Green Space to the opposite of 1-4 College View**
- 15. Green space at Atherton Way, Canal Hill**

16. Hay Park
17. Cluster of green spaces within the Pinnex Moor Estate
18. Cluster of green spaces within the Moorhayes Estate
19. Palmerston Park estate community space
20. Green space with play area at Roundhill, Cotteylands
21. Adventure playground, Cowleymoor Road
22. Rugby fields
23. Playing field at Blackmore Road Wilcombe
24. Grounds of Sunningmead Community Centre
25. Green space at the end of Glebelands Road
26. Narrow Lane & Howden Road green space
27. Colley Stream green space
28. John Street Allotments
29. Elmore Allotments
30. Ashley Rise Play Area

Inappropriate development will not be supported except in very special circumstances.

~~Development proposals within the designated local green space will only be supported in very special circumstances.~~

POLICY T11: LOCALLY SIGNIFICANT VIEWS

A. The setting of the town of Tiverton contributes greatly to its character.

Views of the 'green horizon' out of the town and the main approaches to the town play key roles in its setting. Proposals with significant harmful impacts on the setting of Tiverton will not be permitted.

B. Development proposals are required to ensure that they do not have a significantly detrimental impact on:

i. the 15 locally significant views listed in Figure 7.5 and shown on the Policies Map; and

ii. The views set out in The Setting of Knightshayes Park and Garden: A Historic Landscape Assessment.

C. As appropriate to their scale and nature development proposals within the shaded arcs of the various views as shown on Figure 7.5 should be designed in a way that safeguards the locally significant view or views concerned. Proposals for major development should be supported by a landscape/visual impact assessment which clearly demonstrates the potential impacts that such a proposal would have on significant views where relevant and how these impacts will be mitigated.

COMMENT

Mid Devon District Council is the decision maker for planning applications, applying policies within the Development Plan and balancing these against other material considerations. Neighbourhood plan policies cannot permit or not permit development they can only support or not support policies. For clarity and to meet the Basic Conditions the phrase “not permitted” within the first paragraph should be replaced by “not supported”

POLICY T12: SUPPORTING LOCAL AGRICULTURE AND OPPORTUNITIES FOR DIVERSIFICATION

The development and diversification of agricultural and other land-based rural businesses will be supported, subject to taking into account local character,

residential amenity and highway safety. Development should, where viable and deliverable, incorporate renewable and low carbon technologies.

COMMENT

I have no comment on this policy.

POLICY T13: PROVISION OF LEISURE AND RECREATION FACILITIES

A. To provide for the increased need for leisure and recreational provision to support the growing population of Tiverton, development proposals that deliver the following shall be strongly supported:

- i. The development of sports facilities at the former Tiverton High School site.
- ii. The provision of additional football pitches (to include 4G all-weather or higher specification) and to improve the pitches at Amory Park.
- iii. The replacement of the play equipment at Wilcombe Playing Field and Westexe Recreation Ground and introduction of equipment within Local Green Spaces.
- iv. The provision of additional and improved youth facilities, including sheltered youth spaces.
- v. The provision of additional play areas to serve the needs of children of all ages, in line with the MDDC's Quantity and Access Standards 50. Where possible, this should incorporate areas for 'natural play'⁵¹. New residential development should demonstrate how it has actively provided for natural play through the design of public green spaces.

COMMENT

I have no comment on this policy.

POLICY T14: CULTURAL AND COMMUNITY VENUES

A. Proposals that would result in the loss of cultural and community facilities (Use Class F) will only be supported if alternative and equivalent facilities are provided. Such re-provision will be required to demonstrate that the replacement facility is:

i. at least of an equivalent scale to the existing facility; and

ii. is in a generally accessible location to the community of the

Neighbourhood Plan area; and

iii. is made available before the closure of the existing facility; and

iv. is of a quality fit for modern use.

B. Proposals for new/improved community facilities – including shops selling essential items (Use Class F2a) - will be encouraged subject to the following criteria:

i. the proposal would not have significant harmful impacts on the amenities of surrounding residents and the local environment; and

ii. the proposal would not have significant adverse impacts upon the local road network.

COMMENT

I have received representation that by referring only to the F2 Use Class is too narrow as other cultural and community venues such as cinemas, theatres and pubs fall outside this Use Class, I have assumed that it was the intention to cover these facilities. I also consider that the scope of the policy is overly onerous and for clarity and to meet the Basic Conditions the policy should be modified as follows:

POLICY T14: CULTURAL AND COMMUNITY VENUES

A. Proposals for a change of use that would result in the loss of cultural

or community facilities will only be supported if alternative and equivalent facilities are provided or where there is evidence to prove that the facility is no longer required or that is no longer viable. Any re-provision will be required to demonstrate that the replacement facility is:

i. at least of an equivalent scale to the existing facility; and

ii. is in a generally accessible location to the community of the

Neighbourhood Plan area; and

iii. is, where possible made available before the closure of the existing facility; and

iv. is of a quality fit for modern use.

B. Proposals for new/improved community facilities – including shops selling essential items (Use Class F2a) - will be encouraged subject to the following criteria:

i. the proposal would not have significant harmful impacts on the amenities of surrounding residents and the local environment; and

ii. the proposal would not have significant adverse impacts upon the local road network.

Original text with modification:

POLICY T14: CULTURAL AND COMMUNITY VENUES

A. Proposals for a change of use that would result in the loss of cultural and community facilities (~~Use Class F~~) will only be supported if alternative and equivalent facilities are provided **or where there is evidence to prove that the facility is no longer required or that is no longer viable.** Such re-provision will be required to demonstrate that the replacement facility is:

i. at least of an equivalent scale to the existing facility; and

ii. is in a generally accessible location to the community of the

Neighbourhood Plan area; and

iii. is, **where possible** made available before the closure of the existing facility; and

iv. is of a quality fit for modern use.

B. Proposals for new/improved community facilities – including shops selling essential items (Use Class F2a) - will be encouraged subject to the following criteria:

i. the proposal would not have significant harmful impacts on the amenities of surrounding residents and the local environment; and

ii. the proposal would not have significant adverse impacts upon the local road network.

POLICY T15: ALLOTMENTS AND COMMUNITY GROWING SPACES

A. Proposals that would result in the loss of all or part of existing allotment spaces will not be supported unless alternative and equivalent allotment space is provided.

B. Alternative allotment provision proposed as part of such proposals will be required to meet the following criteria:

i. the scale of the alternative site must be of at least an equivalent scale to the existing allotment provision; and

ii. the quality of the alternative site must be of at least an equivalent standard in terms of layout and soil character to the existing allotment provision; and

iii. the location of the alternative provision must be generally accessible by pedestrians and cyclists and within or adjacent to the defined settlement area, as shown on the Policies Map.

C. The provision of allotment facilities and/or community growing spaces of a size appropriate to developments, particularly where these can be used to create attractive, and safe, screening for, for example, car parking areas or main roads, will be encouraged.

COMMENT

I have no comment on this policy.

POLICY T16: ENCOURAGING SAFE AND SUSTAINABLE MOVEMENT

A. Development proposals to improve cycling and walking opportunities will be supported. In particular, provision of cycle and pedestrian routes that are physically separated from vehicular traffic and from one another will be strongly supported. Such routes should also ensure that access by disabled users and users of mobility scooters is secured, which could include the provision of wider pavements, dropped kerbs and widened entrance ways.

B. To ensure that residents can access public transport facilities, schools, leisure and other important facilities, all new developments should ensure safe pedestrian and cycle access to link up with existing footways and cycleways that, in turn, directly serve the existing foot and cycle path network shown on the Policies Map.

C. Proposals to enable the provision of additional walking and cycling connections, will be supported, in particular where they enable the delivery of additional routes as set out in Aim 4.

Proposals should provide the following infrastructure as part of development, in accordance with the MDDC Parking Standards set out in Policy DM5 of the Mid Devon Local Plan Review:

- i. dedicated bicycle parking facilities, preferably with e-bike charging points, covered and secure; and
- ii. future-proofed electric vehicle charging points.

The provision of benches along the Primary Movement Routes will be supported.

COMMENT

The requirements of this policy will not be appropriate or achievable for all developments. For clarity reference to Mid Devon Local Plan review should be modified to Mid Devon Local Plan (adopted 2020)

For clarity and to meet the Basic Conditions Paragraph D. of the policy should be modified as follows:

D. Proposals should provide, wherever possible, the following infrastructure as part of development, in accordance with the MDDC Parking Standards set out in Policy DM5 of the Mid Devon Local Plan Review (adopted 2020):

Original text modified:

D. Proposals should provide **wherever possible** the following infrastructure as part of development, in accordance with the MDDC Parking Standards set out in Policy DM5 of the Mid Devon Local Plan ~~Review~~ **(adopted 2020):**

POLICY T17: FLEXIBLE WORKSPACES

Proposals to provide incubator/start-up business space on flexible terms will be supported, subject to specific site and traffic assessments, through:

- i. conversion of existing buildings in the Town Centre; or
- ii. provision of new buildings or conversion of existing buildings within the settlement boundary, in accordance with Policy T1 and Policy T11.

COMMENT

I have no comment on this policy.

POLICY T17: SUPPORTING A SUSTAINABLE VISITOR ECONOMY

The development and expansion of tourism facilities, accommodation, attractions and activities connected with day and staying visitors will be supported subject to compliance with other policies of the Plan and where the following criteria can be met:

- i. There are demonstrable economic and social benefits of the proposals, particularly in terms of local job creation; and
- ii. There will be no significant detrimental impacts on the local community; and
- iii. For proposals within the Settlement Boundary, there should be no detrimental impact upon traffic movement through the town; and
- iv. For proposals outside the Settlement Boundary, developments should be in accessible sites and there will be no significant detrimental environmental impacts; and
- v. Adequate provision for parking – both car and bicycle - is included, particularly for proposals within or adjacent to the town centre.

COMMENT

Policy DM22 of the Mid Devon Local Plan requires that proposals for tourism or leisure facilities, if not within or adjacent to defined settlements to justify a countryside location and minimise environmental impacts and avoiding an unacceptable traffic impact on the local road network. I am not clear as to whether the introduction to the policy is clear as to referring just to other policies within the neighbourhood plan or the Development Plan which would include both the Tiverton NDP (once Made) and the Mid Devon Local Plan (adopted 2020). There is some considerable overlap between the two policies and it is not necessary to repeat existing policy.

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

modified as follows:

POLICY T17: SUPPORTING A SUSTAINABLE VISITOR ECONOMY

The development and expansion of tourism facilities, accommodation, attractions and activities connected with day and staying visitors will be supported subject to compliance with the policies of the Development Plan and where:

- i. There are demonstrable economic and social benefits of the proposals, particularly in terms of local job creation; and**
- ii. There will be no significant detrimental impacts on the local community; and**
- iii. A Transport Impact Assessment or Transport Statement demonstrates that the impact on traffic movement through the town can be mitigated; and**
- iv. For proposals outside the Settlement Boundary, proposals are in an accessible location and there will be no significant detrimental environmental impacts; and**
- v. There is adequate provision for parking – both car and bicycle - particularly for proposals within or adjacent to the town centre.**

SECTION 5

Conclusion and Recommendations

1. I find that the Tiverton Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.
2. 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 Tiverton Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Plans in place within the Neighbourhood Area.
4. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening, meet the EU Obligation.
5. The policies and plans in the Tiverton Neighbourhood Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the Development Plan. At the time of my examination, the development plan for the area comprised of the Mid Devon Local Plan Review 2013-2033(adopted July 2020).
6. I therefore conclude that the Tiverton Neighbourhood Plan subject to the recommended modifications can proceed to Referendum.

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22 JULY 2022

