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**Report for: Cabinet**

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Date of Meeting:	12 <sup>th</sup> December 2023
<b>Subject:</b>	<b>Silverton Neighbourhood Plan – decision on Examiner’s report</b>
Cabinet Member:	Councillor Steve Keable, Cabinet Member for Planning and Economic Regeneration
Responsible Officer:	Richard Marsh, Director of Place
Exempt:	None
Wards Affected:	Silverton Ward
Enclosures:	Appendix 1 – Silverton Parish Neighbourhood Plan: A Report to Mid Devon District Council on the Examination of the Silverton Parish Neighbourhood Plan  Appendix 2 – Decision Statement  Appendix 3 – Silverton Neighbourhood Plan

**Section 1 – Summary and Recommendation(s)**

The Silverton Neighbourhood Plan has been examined by an independent Examiner and Mid Devon District Council received the final Examiner’s report on 2<sup>nd</sup> November 2023. There is now a need for the Council to consider the Examiner’s recommended modifications and reach a decision whether the Silverton Neighbourhood Plan with the Examiner’s recommended modifications be agreed, and that the plan proceeds to a local referendum.

**Recommendation(s):**

**To Cabinet that:**

- 1. the Examiner’s modifications (Table 2) be agreed, and that subject to these modifications the Silverton Neighbourhood Plan is determined to meet the Basic Conditions (as defined in the Town and Country Planning Act 1990 Schedule 4B) and other legislative requirements;**
- 2. the Decision Statement attached at Appendix 2 be approved; and**

**3. the Silverton Neighbourhood Plan (at Appendix 3) subject to the Examiner's modifications, proceeds to a local Referendum based on the boundary of the Silverton Neighbourhood Area.**

## **Section 2 – Report**

### **1.0 Introduction**

- 1.1 The Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012 (as amended) introduced powers to allowing qualifying bodies (parish councils, or neighbourhood forums in areas without parish councils) to produce neighbourhood plans and Neighbourhood Development Orders. Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built, have their say on what those new buildings should look like and what infrastructure should be provided. The Neighbourhood Plan can be used to inform planning applications in the neighbourhood area submitted to the local planning authority for determination and the decisions made on these. Neighbourhood planning provides a powerful set of tools for local people to plan for the types of development to meet their community's needs and where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

#### *Silverton Neighbourhood Plan*

- 1.2 The Silverton Neighbourhood Plan has been prepared by the Neighbourhood Plan Steering group for Silverton Parish Council. It Includes:
- A vision statement for Silverton
  - 6 Sections:  
Natural Environment; Built Environment; Housing; Business and Jobs; Traffic and Travel; Community Spaces and Activities.

Each section has identified a series of objectives which support the delivery of the vision, but which do not constitute planning policies. The neighbourhood plan includes 23 policies covering a range of planning matters. The neighbourhood plan identifies a few housing sites that are available and have potential for development. It also recognises the need for reduction of carbon emissions to net zero.

#### *Strategic Environmental Assessment and Habitat Regulation Assessment*

- 1.3 The Silverton Neighbourhood Plan has been subject to a Strategic Environmental Assessment and Habitat Regulation Assessment screening undertaken by the Council (2018). The screening identified a potential for significant environmental effects to occur from the implementation of the NP. It

was recommended to undertake a full SEA, however there was no need for a full HRA. The Strategic Environmental Assessment (SEA) for the Silverton Parish Neighbourhood Plan (Sept 2022) was produced by AECOM.

#### *Stages in production of a neighbourhood plan*

- 1.4 There are a number of key stages in the production of a neighbourhood plan and these can be summarised as follows in relation to the preparation of the Silverton Neighbourhood Plan:

Table 1 – key stages in the production of a neighbourhood plan

<b>Key stage</b>	<b>Action</b>	<b>Date</b>
1. Neighbourhood Area designation	Silverton Neighbourhood Plan Area designation requested by Silverton Parish Council and approved by Mid Devon District Council. This sets the area the Neighbourhood Plan will apply to.	7 <sup>th</sup> July 2014
2. Pre-Submission Consultation	Regulation 14 consultation (minimum 6 weeks) organised by Silverton Town Council	4 <sup>th</sup> September 2021 – 5 <sup>th</sup> November 2021
3. Submission	Silverton Parish Council submitted the Silverton Neighbourhood Plan to Mid Devon District Council	Plan submitted 14 <sup>th</sup> December 2022 Formal confirmation by MDDC 16 <sup>th</sup> January 2023
4. Publication	Regulation 16 consultation (minimum 6 weeks) organised by Mid Devon District Council  Regulation 16 re-consultation (minimum 6 weeks) organised by Mid Devon District Council	18 <sup>th</sup> January 2022 – 3 <sup>rd</sup> March 2023  17 <sup>th</sup> July 2023 – 29 <sup>th</sup> August 2023
5. Examination	Independent Examiner reviews the Plan against the statutory Basic Conditions. The Examiner either recommends that a Neighbourhood plan does not proceed to Referendum, or can proceed Referendum, with or without modifications, and recommends the extent of the area the Referendum applies to.	Final version received 2 <sup>nd</sup> November 2023

Key stage	Action	Date
6. Plan Proposal Decision	Mid Devon District Council considers the Examiner's Report, including the recommended modifications and if satisfied with the Plan proposal agrees for it to proceed to Referendum.	12 <sup>th</sup> December 2023
7. Referendum	Organised and funded by Mid Devon District Council. Where if more than 50% of those voting are in favour of the Neighbourhood Plan, it comes into force as part of the statutory development plan, and must be 'made' by the Council.	Date to be confirmed in 2024

### *The examination*

- 1.5 Following the Regulation 16 consultation, an Independent Examiner was appointed by Mid Devon District Council, with the consent of the Parish Council, to carry out the examination of the Neighbourhood Plan. The Examiner, John Slater examined the Plan by written representations, and undertook an unaccompanied site visit of the Neighbourhood Plan area. He also held a hearing which took place on 29<sup>th</sup> September 2023. The matters considered were the Glebe Housing Site (NP Policy HS03), settlement boundary and Local Green Space designations (NP Policy EN03).
- 1.6 The role of the Examiner is to check (as required under Paragraph 8(1) of Schedule 4B of the Town and Country Planning Act 1990) whether the Neighbourhood Plan meets certain legal requirements:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
  - the policies in the plan meet the requirements of Section 38 of the Planning and Compulsory Purchase Act (that is, it specifies the period to which it has effect, does not include provision about excluded development and does not relate to more than one neighbourhood area), and
  - the plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body, in this case by Silverton Parish Council.
- 1.7 The Examiner must consider a variety of matters, including whether the submitted plan meets the 'Basic Conditions' set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. A plan meets the basic conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan;
- the making of the neighbourhood plan contributes to the achievement of sustainable development;
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area;
- the making of the neighbourhood plan does not breach, and is otherwise compatible with retained European Union (EU) obligations; and
- such other prescribed conditions which include those set out in the following regulations.

1.8 Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions. These are:

- the making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 , and
- having regard to all material considerations, it is appropriate that the neighbourhood development order is made where the development described in an order proposal is Environmental Impact Assessment development (this does not apply to this examination as it is not about a neighbourhood development order).

### *Examiner's report*

- 1.9 The Examiner has now examined the Silverton Neighbourhood Plan and has issued his report (see **Appendix 1**). The Examiner has concluded that subject to the modifications set out in his report the Silverton Neighbourhood Plan meets the basic conditions and other statutory requirements, and has recommended that subject to the modifications set out in his report the Silverton Neighbourhood Plan should proceed to a local referendum.
- 1.10 The Examiner is also required to consider whether the referendum should be extended beyond the Silverton parish area. The Examiner is satisfied that the Referendum Area should be the same as the Plan Area. The Plan should proceed to referendum based on the neighbourhood area approved by Mid Devon District Council on 7<sup>th</sup> July 2014.
- 1.11 After the Examiner's Report was formally submitted, the Neighbourhood Plan group made officers aware that this includes a factual error in relation to the Local Plan allocated site Policy SI2 The Garage. The report wrongly states that the site has been developed (page 10, paragraph 49). The Examiner has been informed of the error and has concluded that since the error has no significance in terms of the examination and the recommendations, there is no need to issue an addendum to the Report. Officers agree with this view.

*The role of the Mid Devon District Council as the local planning authority*

- 1.12 The Council, as the Local Planning Authority must take decisions at key stages in the neighbourhood planning process and within specified time limits, and has a duty to provide advice or assistance to a parish council as it considers appropriate for the purpose of, or in connection with, facilitating the making of proposals in relation to the neighbourhood plan. This includes providing comments on 'general conformity' of the neighbourhood plan policies with the strategic policies of the Local Plan, advising on neighbourhood plan requirements (including Strategic Environmental Assessment 'SEA' and Habitat Regulations Assessment 'HRA'), undertaking post-submission consultation on the neighbourhood plan (Regulation 16 consultation), the appointment of an independent examiner, making a decision on the Examiner's report, making arrangements for the referendum, and bringing the neighbourhood plan into force.
- 1.13 Once the Council has received the Examiner's report it must decide what action to take. Regulation 18 of the Neighbourhood Plan (General) Regulations 2012 (as amended) provides that once the Local Planning Authority (LPA) has made one of the following decisions, it must publish the decision with the reasons for such, include details for inspection of the decision statement and in the case of (c) below, the Examiner's report:
- (a) to decline to consider a plan proposal;
  - (b) to refuse a plan proposal;
  - (c) what action to take in response to the recommendations of an examiner made in a report;
  - (d) what modifications, if any, they are to make to the draft plan;
  - (e) whether to extend the area to which the referendum (or referendums are) to take place; or
  - (f) that they are not satisfied with the plan proposal.
- 1.14 There are no grounds to decline to consider the Neighbourhood Plan under part (a), since this is not a repeat proposal (i.e. where the same or similar proposal has been refused by the Council within the previous 2 years or where a referendum relating to a proposal that is the same as or similar has been held and 50% or less than 50% of those voting voted in favour, and the Council considers no significant change in national policy and advice in Secretary of State guidance of relevance to the proposal, or the strategic policies of the development plan for the area of the authority have occurred since the refusal or referendum).
- 1.15 There are no grounds to refuse to consider the Plan under part (b), since the legislative requirements have been met. This is in terms of the parish council being authorised to act, the neighbourhood plan's submission, the neighbourhood plan's scope and definition, and the correct procedures in relation to the pre-submission consultation and publicity being followed.

- 1.16 In relation to part (c), the Examiner has made a series of recommendations. The Council needs to consider what action to take in relation to these. This is discussed in section 2 of this report. The Council must also consider, under part (d) whether there are any other modifications which are required to ensure the basic conditions are met; to ensure the Neighbourhood Plan is compatible with the Convention rights, to ensure the requirements of legislation are met, and to correct errors. If the Council proposes to make a decision which differs from that recommended by the Examiner, and the reason for the difference is (wholly or partly) as a result of new evidence or a new fact or a different view taken by the Council as to a particular fact, then a six week period must be given for people to make representations. If the Council considers it appropriate, then the issue can be referred to further examination.<sup>1</sup>
- 1.17 Officers consider that the plan meets the requirements under part (d) and do not consider that any further modifications are needed in addition to those recommended by the Examiner.
- 1.18 The Local Authority must consider whether to extend the area to which the Referendum is held under part (e). This is discussed in section 3 of this report.
- 1.19 If the Local Authority is not satisfied that the plan meets the basic conditions, is not compatible with Convention rights or requirements of legislation are not met then they must refuse the Neighbourhood Plan under part (f). This is not the case with this Neighbourhood Plan.
- 1.20 The Neighbourhood Plan (General) Regulations 2012 state that a LPA must publish the actions which will be taken in response to the recommendations of the Examiner. This is known as a 'Decision Statement'.

## **2.0 Consideration of the Examiner's report and proposed modifications**

- 2.1 The Examiner has recommended modifications to ensure that the Plan meets the basic conditions and have the clarity required by national guidance and ensure that the policies do what they are intended to do. These are set out in his report (see **Appendix 1**) and are also set out below in Table 2, together with the Council's decisions that are recommended by Officers, and the reasons for these:

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<sup>1</sup> Regulations 12 and 13 of Schedule 4B of the Town and Country Planning Act 1990

**Table 2 – Examiner’s recommended modifications**

Neighbourhood Plan Policy	Examiner’s recommended modifications shown in bold, as <del>striketrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy EN01: Retaining and Enhancing the Natural Beauty of Our Parish	<p>Replace clause 1 with</p> <p>“Development proposals will <b>only-not</b> be supported where they have <del>demonstrated that there are a</del> <b>greater than</b> minimal <b>adverse</b> impact on the natural environment (landscape and biodiversity), <del>or-unless</del> they satisfactorily mitigate these <b>adverse</b> impacts. <del>and-Development will be expected to</del> enhance the natural environment where there is the opportunity to do so.</p>	<p>Agreed.</p> <p>These modifications are needed to reflect the wording of national planning policy and so meet the Basic Conditions, and will add clarity to the Policy EN01.</p>
Policy EN02: Rights of Way (Public Footpath, Bridleways and Cycleways)	<p>Revise the policy as follows:</p> <p>Proposals for development/- affecting public rights of way will be supported where:</p> <ol style="list-style-type: none"> <li>1. they promote, protect, maintain and enhance the existing local footpath and bridleway network for use on foot, bicycle or horseback <b>and</b></li> <li>2. they improve and enhance the existing network through the provision of new or extended routes (<b>where it is feasible to do so</b>) <b>and</b></li> <li>3. they prevent motorised vehicles (except those specifically designed for the disabled) using designated footpaths, bridleways and cycleways <b>and</b></li> <li>4. they protect and/or enhance the value of the rights of way as a biodiversity corridor</li> </ol>	<p>Agreed.</p> <p>These modifications are needed to clarify which criteria proposals are required to meet.</p>



Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>strikethrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy EN03: Local Green Space	Amend Map 5 to remove the area on the south side of Applemede.	<p>Agreed.</p> <p>The site does not warrant this level of protection.</p> <p>The modification will meet the Basic Conditions.</p>
Policy EN04: Minimising Flood Risk	<p>Amend the policy as follows:</p> <p><del>All development</del> Proposals for <b><i>new buildings / extensions / engineering operations</i></b> should show how they will incorporate Sustainable Drainage System (SUDS) principles and provision for their ongoing maintenance in order to buffer rainwater runoff and to ensure there is no adverse impact on local flood risk through development.</p>	<p>Agreed.</p> <p>The modification is needed to make clear which development proposals Policy EN04 will apply to.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>strikethrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy BE01: Local Character and Design Standards	<p>Amend clause 1, criterion III as follows:</p> <p>demonstrates that the amenities of neighbouring residential occupiers will not be <b><i>unacceptably</i></b> adversely affected through overlooking, loss of light or outlook, over dominance or disturbance; and minimises visual impact through sensitive design and an appropriate level of landscaping and screening which complements and enhances the character of the local area.</p> <p>Amend clause 2 as follows:</p> <p>Development proposals should <del>be accompanied by a statement that sets out:</del> <b><i>demonstrate</i></b> <del>an assessment of the character of the site and its context;</del> how the proposed development fits in with <del>these specific characteristics</del> <b><i>character of the site and its wider context</i></b>, and how the Silverton Design Statement has been taken into account.</p>	<p>Agreed.</p> <p>The modification is needed to make Policy BE01 consistent with Policy DM1 of the Local Plan.</p> <p>Additionally, a neighbourhood plan policy cannot dictate what documents should accompany a planning application. The modification will meet the legal requirements for a neighbourhood plan.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>striketrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy BE02: Local Heritage	<p>Amend the policy as follows</p> <p>1. Development proposals within or <del>in proximity to which affects the setting</del> <b>of</b> the Silverton Conservation Area will be expected to demonstrate how they will positively conserve and enhance the unique characteristics of its location as identified in the Silverton Conservation Area Appraisal and Management Plan.</p> <p><del>2. Development proposals in the wider Parish will also need to show how they will respect heritage assets and enhance the rural character of the area.</del></p> <p>3. <del>Where a he requisite</del> Heritage Statement <b>is required</b> to accompanying <del>ing a</del> planning applications <b>it</b> will be required to identify the heritage assets, provide a clear assessment of the significance and impact of the proposal on those assets <b>and their setting</b> and to justify the design approach taken.</p>	<p>Agreed.</p> <p>The modification adds clarity to the policy and removes an unreasonable requirement placed on development proposals which do not affect heritage assets or rural character of the area.</p>
Policy HS01: Scale of Housing Development	<p>Amend the policy as follows:</p> <p>Proposals for housing development of five and fewer dwellings within <del>or on the edge of the</del> Village <b>Settlement Boundary as shown on the Policies Map</b> and on sites allocated in the Neighbourhood Plan will be supported provided they conform to the other policies of this Plan.</p>	<p>Agreed.</p> <p>The modification adds clarity to the policy, and will achieve general conformity with Policy S13 of the Local Plan and meet the Basic Conditions.</p>

<p>Policy HS03: The Glebe Housing Site</p>	<p>Retitle the Policy as “Land at the Glebe”</p> <p>Amend the policy as follows:</p> <p><b><del>Development proposals</del> Land at The Glebe is allocated for a mixed use development</b> to provide up to 5 dwellings on the <b>site area shaded brown and an area of public open space on the area shaded green as</b> indicated on Map 8. <b>A comprehensive development proposal</b> will be supported provided:</p> <p>I. the <b>housing</b> scheme is sensitive to its setting, <b>within adjacent to</b> the conservation area and its close proximity to the countryside;</p> <p>II. the visual impact of the <b>housing</b> development from the Churchyard and the Berry is minimised. A Heritage Assessment would be taken into account.</p> <p>III. the <b>housing</b> development minimises the loss of existing trees and hedges and includes additional planting and other measures to protect Priority Habitat on the western boundary and improve ecological connections in the area, including the provision of green infrastructure enhancements to ensure a net gain in biodiversity</p> <p>IV. vehicular access <b>to the housing development</b> is provided from a single point with visibility splays appropriate to the speed of traffic <b>and the public open space incorporates a footpath link from the housing development to the village;</b></p> <p>V. sufficient parking spaces for residents <b>of the new housing</b> and their visitors are provided within the <b>housing</b> site;</p> <p>VI. adequate recycling and storage areas are included on <b>housing</b> site as an integrated part of the design and layout of the scheme so as not to harm visual amenity;</p>	<p>Agreed.</p> <p>The modifications strengthen the requirement to secure the provision of public open space as part of mixed use development at the Glebe site, and will meet the Basic Conditions.</p>
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Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>strikethrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
	<p><del>VII. — provision is made for an area of public open space of at least 0.5 ha on the Glebe including the planting of native tree species and hedging on boundaries.</del></p> <p><i>Any planning application for the housing development on the land shaded brown shall be accompanied by a planning obligation that provides for the transfer of the land shaded green (excluding the small building shaded brown) to the Parish Council before the housing development is commenced.</i></p>	
Policy HS04: Tiverton Road Development Site	<p>Amend the policy as follows:</p> <p>Development proposals to provide <b>at least</b> two dwellings on the site indicated on Map 9 will be supported provided:</p> <p>I use of the existing topography to ensure that there will be no unacceptably detrimental impact on the skyline;</p> <p>II existing boundary hedgerow and trees are retained, except where some loss is unavoidable to create safe vehicular access to the site. If this loss occurs, it must be mitigated by restoration and re-creation to provide net-gain in biodiversity;</p> <p>III sufficient parking spaces for residents and their visitors are provided within the site;</p> <p>IV private garden space for each dwelling commensurate with the size of the dwelling is provided; and</p> <p>V adequate recycling and storage areas are included on site as an integrated part of the design and layout of the scheme so as not to harm visual amenity.</p>	<p>Agreed.</p> <p>The modification will provide flexibility to the policy and be consistent with the supporting text to Policy HS04.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>striketrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy HS05: Community Housing	<p>Amend the policy as follows</p> <p>Community Housing schemes, such as a Community Land Trust, of more than five dwellings will be supported on a site, or sites <del>in locations within a reasonable and safe walking distance of existing community facilities</del> <b>adjacent to the settlement boundary</b>, where development would not otherwise be permitted providing:</p> <p>I the development <b><i>meets the requirements set out in Policy DM6 of the Mid Devon Local Plan 2013 - 2033 including providing that provides</i></b> an appropriate mix of dwelling types and sizes reflecting identified local need and meets demand based on a current Local Housing Needs Assessment; <b><i>and</i></b></p> <p>II the development will not have a significant adverse impact on the character of the area and local landscape setting <b><i>and</i></b>;</p> <p>III the scheme demonstrates it has taken the Silverton Design Statement into account; and the <del>land is held in trust as a community asset</del> <b><i>affordable or low-cost housing will remain affordable</i></b> in perpetuity <del>to provide genuinely affordable housing</del> to meet local needs.</p>	<p>Agreed.</p> <p>The modification is needed in order to be consistent with Local Plan Policy DM6 and meet the Basic Condition to contribute to the achievement of sustainable development.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>strikethrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy HS06: Parking Space on Housing Development	<p>Amend the policy as follows:</p> <p>New housing development will be required to provide a minimum of two off-road parking space for units with 1 or 2 bedrooms and a minimum of three off-road parking spaces for units with 3 or more bedrooms. Garages that count against this requirement must be of a size that allows for the parking of a family size car and a bicycle <b><i>unless separate cycle storage is provided in accordance with Policy DM 5 of the Mid Devon Local Plan 2013 - 2033.</i></b></p> <p><del>At least one electric car charging per house, with vehicle-to-grid connectivity when available.</del></p>	<p>Agreed.</p> <p>The modification is needed to achieve consistency with Local Plan Policy DM5 and be consistent with recent changes to the Building Regulations Part S.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>strikethrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy BJ01: Roosters, Babylon Lane, Employment Site	<p>Amend the policy as follows</p> <p>Redevelopment proposals to protect existing or provide improved business/employment space at the site shown on Map 10 will be supported provided any redevelopment of the site does not result in a net increase in the total footprint of buildings on the site and they:</p> <p>I        minimise the loss of existing trees and hedges and include additional planting and other measures to ensure a net gain in biodiversity;</p> <p>II        include adequate and appropriate screen-planting to minimise visual impact and ensure that adjoining uses are not adversely impacted by business activity on the site;</p> <p>III       provide sufficient on-site parking together with an adequate service and turning area on site;</p> <p>IV       satisfactorily address traffic and highway issues with <b><i>any new</i></b> access being <b><i>designed to ensure that vehicles can only enter and leave the site from and towards</i></b> the west <del>only</del>;</p> <p>V        conform to the other policies of this Plan.</p>	<p>Agreed.</p> <p>The modification is needed to make sure the criterion is within the scope of a policy for the development and use of land and so meet the legal requirements for a neighbourhood plan</p>



Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>strikethrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy BJ02: Super-fast Connectivity	<p>Amend the policy as follows:</p> <ol style="list-style-type: none"> <li>1. The development of a super-fast broadband infrastructure to serve Silverton Parish will be supported where it is sensitively sited and sympathetically designed.</li> <li>2. All new residential, educational and business premises should <b><i>incorporate the necessary infrastructure (ducting etc.) to enable the premises to</i></b> be served by a superfast broadband (fibre-optic) connection <del>installed on an open access basis</del>.</li> </ol>	<p>Agreed.</p> <p>Modification of Policy BJ02 is necessary to make clear it relates to the provision of infrastructure to support the internet.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>striketrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy BJ03: Home Working	<p>Amend the policy as follows</p> <p>1. <b><i>Where planning permission is required</i></b>, proposals for development that combines living and small-scale employment space for office and/or light industrial uses through:</p> <p>I. the use of part of a dwelling; or</p> <p>II. a small-scale free-standing building within its curtilage; or</p> <p>III. extensions to the dwelling; or</p> <p>IV. conversion of outbuildings <b><i>outside of residential curtilages</i></b></p> <p>will be supported provided there is no adverse impact on the character and amenity of nearby residential areas and they meet the criteria of Policy BE01.</p> <p><b>2.</b> Employment space permitted under clause (IV) of this policy must remain as its approved use unless it has been actively marketed for <b><i>at least 18 months</i></b><del>two years</del> and it can be demonstrated that no demand exists for its continuation for employment purposes. <del>In such cases, the redundant space should revert to its former use.</del></p>	<p>Agreed.</p> <p>This modifications will make clear the policy will only apply to development that requires planning permission, and the policy will also meet the Basic Conditions.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>striketrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy TR02: Pedestrian Link to Main Road	Amend the policy as follows:  <b>Development</b> Proposals <del>that further</del> for the creation of a safe pedestrian and cycle link between the Village and the A396 will be supported.	Agreed.  This modification is needed to make the intention of Policy TR02 clear.

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>strikethrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy TR03: Traffic Management	<p>Amend the policy as follows:</p> <p>1        <b><i>Major</i></b> Development proposals that <b><i>require the preparation of a Transport Assessment</i></b> should identify the realistic level of traffic they are likely to generate. They must assess the potential impact of this traffic on pedestrians, cyclists, road safety, parking and congestion within the Silverton neighbourhood area and include measures to mitigate any impacts.</p> <p>2        Development that would give rise to unacceptable highway dangers <b><i>or where the residual cumulative impact on the highway network is severe should will</i></b> not be permitted.</p> <p><del>3        Traffic management proposals to reduce speed and improve pedestrian safety on existing roads should be consulted on fully and show they have the support of the local community.</del></p> <p><del>4        A 20mph limit in built up areas throughout the parish is supported. If a legal limit proves problematic to implement, an advisory limit is recommended for a transitional period.</del></p> <p><del>5        Banning of lorries over 7.5T, except for access, in built areas of the Parish to improve safety is recommended.</del></p>	<p>Agreed.</p> <p>The modification of Policy TR03 will remove criteria that do not fall within the scope of policies for the development and use of land and so meet the legal requirements for a neighbourhood plan. It will also remove criteria about matters which are covered through other legislation.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>strikethrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy TR04: Off Road Parking	<p>Amend the policy as follows:</p> <p><del>Development proposals must make adequate provision for off-road parking and service vehicles taking into consideration the type of development, the accessibility of the location, and the requirements of parking standards set down in policy HS06 of the Neighbourhood Plan for residential development, or any standards set by Devon County Council and/or Mid Devon District Council for non-residential developments.</del></p> <p>Development proposals to provide an additional public car park serving the Village of Silverton will be supported provided:</p> <ul style="list-style-type: none"> <li>• suitable points for the charging of electric vehicles</li> <li>• suitable access/egress arrangements can be provided</li> <li>• the car park is suitably landscaped</li> <li>• it will not cause significant nuisance to adjoining properties</li> <li>• It is suitably located</li> <li>• Extension of the lay-by at Ellerhayes for additional parking is supported.</li> </ul> <p><del>4. Adoption by individuals of Driveway Sharing schemes and Electric Charging Sharing scheme is encouraged.</del></p> <p>5. Provision of electric chargers at existing car parks and community buildings with car park is encouraged.</p>	<p>Agreed.</p> <p>This modification is needed to avoid duplication of other policies in the neighbourhood plan and the Local Plan, and also will meet the legal requirements for a neighbourhood plan.</p>

Neighbourhood Plan Policy	Examiner's recommended modifications shown in bold, as <del>strikethrough</del> text to be removed from the policy wording and text that needs to be introduced shown in <i>italics</i>	Recommended Council decision and reason
Policy TR05: Vehicle Sharing	The policy be deleted	<p>Agreed.</p> <p>The content of this policy is outside the scope of policies for the development and use of land and the modification is needed to meet the legal requirements for a neighbourhood plan.</p>

<p>Policy CS01: Existing Community Facilities and Assets</p>	<p>Amend the policy as follows:</p> <p>4- Development proposals that result in the loss of local retail <b>uses, service provision, or the following</b> community facilities <del>or a ‘community asset’ (listed on the Register kept by Mid Devon District Council)</del></p> <ol style="list-style-type: none"> <li><b>1. Silverton Community Hall</b></li> <li><b>2. St Mary’s Church</b></li> <li><b>3. St Mary’s Church Hall</b></li> <li><b>4. Evangelical Church and Hall</b></li> <li><b>5. Methodist Church and Hall</b></li> <li><b>6. The Lamb Inn</b></li> <li><b>7. The Lamb Inn Shed</b></li> <li><b>8. The Silverton Inn</b></li> <li><b>9. Room 4U</b></li> <li><b>10. Wyndham House Surgery</b></li> </ol> <p>will only be supported where:</p> <ul style="list-style-type: none"> <li>• they are to be replaced with community space of an equal or higher quality on the same site or another site within the area;</li> <li>• the proposed alternative use would, overall, provide equal or greater benefits to the local community; and</li> <li>• it is demonstrated, through local <b>community</b> consultation, that it is no longer required by the community for the current use it serves <b>or it is shown that the continued use is no longer economically viable.</b></li> </ul> <p><del><b>2. Community facilities are encouraged to have an environmental assessment undertaken to advise on how they can reduce their carbon emissions</b></del></p>	<p>Agreed.</p> <p>The modifications will add clarity to Policy CS01, and will meet the legal requirements for a neighbourhood plan.</p>
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The Examiner's recommended modifications and the Council's decisions and reasons (in Table 2) are set out in the Decision Statement attached at **Appendix 2**.

- 2.2 Having considered each of the recommendations made in the Examiner's Report and the reasons for them, Officers agree that the Examiner has undertaken a fair examination of the submitted Neighbourhood Plan, properly considering all duly made representations. Officers recommend that the Council agrees with all of the Examiner's modifications to the Neighbourhood Plan.
- 2.3 Silverton Parish Council has been provided with the Examiner's report and has not made any comments on the modifications recommended by the Examiner. Silverton Parish Council has amended the Neighbourhood Plan to include the Examiner's recommendations (set out in **Table 2**), and has provided a reformatted "referendum" version of the neighbourhood plan (**Appendix 3**).
- 2.4 Officers have considered whether any other modifications are required to ensure that the Neighbourhood Plan meets the required conditions. It is not considered that any additional modifications are required.
- 2.5 Officers consider that, subject to the Examiner's modifications, the Silverton Neighbourhood Plan meets the basic conditions set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended), is compatible with the Convention Rights and meets the requirements of paragraph 8(1) of Schedule 4B to the Town and Country Planning Act (as amended).

### **3.0 Next steps and referendum**

- 3.1 It is recommended that Cabinet agrees the Examiner's recommended modifications to the Neighbourhood Plan and that the modified Neighbourhood Plan proceeds to referendum. The Neighbourhood Plan incorporating the Examiner's modifications is attached at **Appendix 3**.
- 3.2 It is recommended that Cabinet agrees the Decision Statement and that this is published as soon as possible and publicised in a manner to meet publicity requirements in the Regulations.
- 3.3 In relation to the referendum area, the Examiner concluded that there is no reason to alter, or extend the Plan area, for the purpose of holding a referendum. Officers agree with this recommendation and therefore recommend to Cabinet that the area for the Referendum should be the Silverton Neighbourhood Plan Area as approved by Mid Devon District Council on 7th July 2014 (shown in **Appendix 3**). The Neighbourhood Area covers the entirety of Silverton Parish.
- 3.4 Once the Council has published the Decision Statement detailing its intention to send the Silverton Neighbourhood Plan to referendum, the Council's Development Management Team will be able to give significant weight to this

plan when determining planning applications within the Silverton Neighbourhood Plan Area.

3.5 Subject to the decision of Cabinet recommended in this report, arrangements will be made for the referendum to be held in the Silverton Neighbourhood Plan area (Silverton Parish). To meet statutory requirements the referendum will be held within 56 working days following the publication of the Decision Statement and the date for the referendum will be published not fewer than 28 days before the date on which the referendum will be held.

3.6 To meet the requirements of the Localism Act 2011 the referendum will pose the following question:

**“Do you want Mid Devon District Council to use the Neighbourhood Plan for Silverton to help it decide planning applications in the neighbourhood area?”**

3.7 Following the referendum, if more than 50% of those voting, vote ‘yes’ then the Neighbourhood Plan comes into force and must be ‘made’ within eight weeks of the Referendum.

#### **4.0 Planning Policy Advisory Group**

4.1 The Planning Policy Advisory Group (PPAG) was consulted on the decision on the Examiner’s report for the Silverton Neighbourhood Plan at its meeting on 20<sup>th</sup> November 2023, and has endorsed the recommendations in this report.

### **Financial Implications**

The process leading to the adoption of a Neighbourhood Plan has financial implications. The costs of support in terms of advice and technical support, examination and referendum must be met by Mid Devon District Council. The Council has received a burdens payment from the Government to help meet these costs to the sum of £5,000<sup>2</sup> for the area designation process, and will be eligible to claim £20,000 from when the Decision Statement is issued which details its intention to send the plan to referendum, to cover costs associated with the examination and referendum. Since the Council has resolved (at its meeting on 6<sup>th</sup> January 2021, Minute 270) not to progress a Community Infrastructure Levy for Mid Devon there will be no neighbourhood proportion of a Community Infrastructure Levy to be passed to Silverton Parish Council.

### **Legal Implications**

The referendum is a statutory requirement, and will be subject to The Neighbourhood Planning (Referendums) Regulations 2012. Changes made to section 38 of the Planning and Compulsory Purchase Act 2004 (through provision 3 of the

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<sup>2</sup> Local Planning Authorities can claim £5,000 for the first five neighbourhood areas designated only.

Neighbourhood Planning Act 2017) mean a neighbourhood plan attains the same legal status as a local plan (and other documents that form part of the statutory development plan) once it has been approved at a referendum, rather than when it is made (adopted) by the relevant authority. At this point it comes into force as part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Policies of the Silverton Neighbourhood Plan will be used alongside policies in the adopted Mid Devon Local Plan, the Devon Minerals and Waste Plans, to help guide planning applications submitted to the Council for determination and the decisions made on these in the Silverton Neighbourhood area (Silverton parish).

## **Risk Assessment**

None identified.

## **Impact on Climate Change**

The preparation of development plans is a key method for climate change mitigation and environmental protection, through appropriate policies and development strategy. The Silverton Neighbourhood Plan includes policies that can have positive (beneficial) impacts to climate change, including Policy TR02 for the creation of a safe pedestrian and cycle link between the village and the A396 which can reduce the need to travel by private car, Policy TR04 Off road parking which supports charging points for electric vehicles, and Policy EN04 to reduce local flood risk through development.

## **Equalities Impact Assessment**

The Decision Statement for the Silverton Neighbourhood Plan (see **Appendix 2**) concludes that 'the Silverton Neighbourhood Plan, as modified, meets the basic conditions as set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 and that the Silverton Neighbourhood Plan complies with provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004'. Therefore, the Council has concluded that the 'making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area, which were subject to a full Equalities Impact Assessment. On this basis, the Silverton Neighbourhood Plan will not in itself lead to any impacts on the equality strands protected under the Equality Act 2010 (the "protected characteristics") over and above those considered and addressed through the Local Plan Equalities Impact Assessment. The Silverton Neighbourhood Plan has been subject to a screening exercise to determine whether its content is relevant to equalities, and if so, whether a full Equality Impact Assessment should be conducted. The screening exercise has found the policies of the Silverton Neighbourhood Plan will have neutral equalities impacts on all protected characteristics. The screening exercise has concluded the Silverton Neighbourhood Plan is not recommended for a full Equalities Impact Assessment.

## **Relationship to Corporate Plan**

If the Silverton Neighbourhood Plan is approved by referendum, it will form part of the statutory development plan for Mid Devon and the strategy for guiding new development in the district, allocate sites for housing and economic development, the provision of infrastructure, as well as policies for the protection of the environment and managing development. The plan will help meet the Corporate Plan priorities: 'Homes', 'Environment', 'Community' and 'Economy'.

## **Section 3 – Statutory Officer sign-off/mandatory checks**

**Statutory Officer:** Andrew Jarrett

Agreed by or on behalf of the Section 151

**Date:** 28/11/2023

**Statutory Officer:** Maria De Leburne

Agreed on behalf of the Monitoring Officer

**Date:** 04/12/2023

**Chief Officer:** Stephen Walford

Agreed by or on behalf of the Chief Executive/Corporate Director

**Date:** 28/11/2023

**Performance and risk:** Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

**Date:** 24/11/2023

**Cabinet member notified:** (yes/no)

## **Section 4 - Contact Details and Background Papers**

**Contact:** Tristan Peat (Forward Planning Team Leader)

Email: [tpeat@middevon.gov.uk](mailto:tpeat@middevon.gov.uk)

Telephone: 01884 234344

### **Background papers:**

**Appendix 1** - Examiner's Report

**Appendix 2** - Decision Statement for the Silverton Neighbourhood Plan

**Appendix 3** - Silverton Neighbourhood Plan