

STRATFIELD MORTIMER NEIGHBOURHOOD DEVELOPMENT PLAN

EXAMINER'S REPORT

Richard Humphreys QC

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Summary of Main Findings

1. Whilst the draft NDP is in general conformity with the strategic policies of the development plan, I find that potential landscape and visual impacts have not been considered properly when promoting The Site (the land to the south of St John's Infants School) for development. Having regard to national policy, which gives importance to environmental as well as to economic and social considerations, I am not satisfied that the making of the NDP is appropriate nor that it would as a whole contribute to the achievement of sustainable development. My recommendation must therefore be that the proposal to make the NDP be refused.
2. But for this issue of site selection (which is, however, a central part of the draft NDP), I would have recommended that the draft Plan be submitted to referendum with modifications (set out below). I also find that the legislative requirements have otherwise been met.

Introduction

Appointment including regulatory requirements

3. With the consent of Stratfield Mortimer Parish Council ("SMPC") as the qualifying body¹, I have been appointed² by West Berkshire Council ("WBC") to carry out an independent examination of the submitted draft Neighbourhood Development Plan³ ("the draft NDP").
4. I am a barrister in private practice specialising in town and country planning, environmental and local government law. I was called to the Bar in 1986 and was appointed Queen's Counsel in 2006. I formally record that I am independent of WBC, SMPC and of all those who have made representations in respect of the draft NDP; and that I have no interest in any land that may be affected by the draft NDP.⁴

¹ See Planning and Compulsory Purchase Act 2004 (as amended) (hereafter referred to as PCPA), s.38A(12).

² Pursuant to paragraph 7(4) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) (hereafter referred to as TCPA), as modified in respect of neighbourhood development plans by s.38A(3) and s.38C(5) of PCPA.

³ Examination document reference SM/01/01.

⁴ See the requirements of paragraph 7(6) of Schedule 4B to the TCPA.

Neighbourhood Development Planning

5. A Neighbourhood Development Plan is defined by legislation as a plan which “sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan”.⁵
6. The Neighbourhood Development Plan system was introduced by the Localism Act 2011. That Act made changes to the Town and Country Planning Act 1990 (“TCPA”) and the Planning and Compulsory Purchase Act 2004 (“PCPA”). Regulations have also been made; in particular, the Neighbourhood Planning (General) Regulations 2012.
7. In support of this new system, national government included policies in the National Planning Policy Framework (“NPPF”) published in March 2012 and in the National Planning Practice Guidance published in March 2014 (and since amended).

Relevant Legislative provisions and compliance

8. Paragraph 8 of Schedule 4B to the TCPA provides that:

“(1) The examiner must consider the following—

(a) whether the draft neighbourhood development order meets the basic conditions

9. A draft NDP meets the basic conditions if⁶—

(i) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan;

I find, for reasons set out further below, that this basic condition has not been met.

(ii) the making of the plan contributes to the achievement of sustainable development;

I find, for reasons set out further below, that this basic condition has not been met.

(iii) the making of the plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area);

⁵ PCPA, s.38A(2).

⁶ Ibid, paragraph 8 (2). 2 sub-paragraphs are omitted since these do not apply to neighbourhood development plans: PCPA s.38C(5)(d).

I note that the requirement is for general conformity.⁷ There was no suggestion that this basic condition has not been met. **I find, for reasons set out further below, that this basic condition has been met.**

- (iv) the making of the plan does not breach, and is otherwise compatible with, EU obligations;

There was no suggestion that this basic condition has not been met. **I find that this basic condition has been met.**

- (v) prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the plan.

- A condition which has been prescribed in respect of NDPs is that:

the making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects);⁸

I find, for reasons set out in particular in the Basic Conditions Statement⁹, that this condition has been met.

- (b) whether the draft plan complies with the provision made by or under sections 38A and 38B of this Act.¹⁰

10. Section 38A provides in particular that:

- Any qualifying body is entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood plan.

Here, SMPC is the relevant qualifying body which initiated the process. WBC is the relevant local planning authority. **I find that this requirement has been met.**

⁷ See, generally, as to the meaning of this phraseology, Persimmon Homes (Thames Valley) Ltd and others v Stevenage Borough Council [2005] EWCA Civ 1365.

⁸ Prescribed by regulation 32 of, and Schedule 2 to, the Neighbourhood Planning (General) Regulations 2012.

⁹ SM/01/03.

¹⁰ See amendments to Schedule 4B effected by s.38C(5)(b).

- A neighbourhood plan (as already noted above) is a plan which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area specified in the plan¹¹.

There was general acceptance that this requirement had been met. **I find that this requirement has been met.**

11. Section 38B provides in particular that a neighbourhood development plan

- must specify the period for which it is to have effect;

I find that the draft NDP does specify the period for which it is to have effect (i.e. to 2026).

- may not include provision about development that is 'excluded development',¹²

I find that the draft NDP does not make provision for excluded development.

- may not relate to more than one neighbourhood area;¹³

I find that the draft NDP does not relate to more than one neighbourhood area.

- only one neighbourhood development plan may be made for each neighbourhood area.¹⁴

I find that the draft NDP would be the only NDP for the neighbourhood area.

- Regulations have been made pursuant to sections 38A and 38B. **I refer in particular to the Consultation Statement¹⁵. I find hereafter that the draft NDP complies with each and every requirement of the 2012 regulations (as amended).**

¹¹ S.38A(2).

¹² A county matter, waste development, development falling within Schedule 1 of the Environmental Impact Assessment Regulations, development consisting wholly or partly of a nationally significant infrastructure project: see s.61K.

¹³ S.38B(1).

¹⁴ S.38B(2).

¹⁵ SM/01/02. Note: SM33 a separate, non-statutory consultation statement provided as part of the evidence base (the correct version of which was provided to me by email on 30th June 2016) refers to the regulation 14 consultation period as having commenced (see no.d pages 1 and 4) on 19th November – midnight 21st December 2015. It is clear from SM/01/02, however, that the period of consultation began on 9th November 2015.

The Regulations provide in particular for the independent examination of the neighbourhood plan and related matters.¹⁶

Apart from considering whether the draft neighbourhood development plan meets the basic conditions and complies with provision made by or under sections 38A and 38B, an examiner is not to consider any other matter, apart from considering whether the draft plan is compatible with the Convention rights.¹⁷

I find that the draft plan would be compatible with the Convention rights if modified (see paragraph xx below).¹⁸

12. I am also required to consider whether the area for any referendum should extend beyond the neighbourhood area to which the draft NDP relates.¹⁹

If I had concluded that the draft plan should be submitted for referendum I would not have recommended that the area for the referendum should extend beyond the neighbourhood area.²⁰ The impacts of the draft NDP are most unlikely to affect a wider area and it has not been suggested by anyone that the area should be extended.

13. Paragraph 10 of Schedule 4B to the TCPA provides that:

- (1) The examiner must make a report on the draft plan containing recommendations in accordance with this paragraph (and no other recommendations).
- (2) The report must recommend either—
 - (a) that the draft NDP is submitted to a referendum, or
 - (b) that modifications specified in the report are made to the draft NDP and that the draft NDP as modified is submitted to a referendum, or
 - (c) that the proposal for the NDP is refused.
- (3) The only modifications that may be recommended are—

¹⁶ See, further, paragraphs 24-26 below.

¹⁷ Ibid, paragraph 8(6).

¹⁸ Ibid, paragraph 8(6).

¹⁹ Schedule 4B, paragraph 8(1)(d).

²⁰ Schedule 4B, paragraph 8(1)(d).

- (a) modifications that the examiner considers need to be made to secure that the draft plan meets the basic conditions mentioned in paragraph 8(2),
- (b) modifications that the examiner considers need to be made to secure that the draft plan is compatible with the Convention rights,²¹

²¹ This has the same meaning as in the Human Rights Act 1998 – see Schedule 4B of the 1990 Act, paragraph 17. The convention is the Convention for the Protection of Human Rights and Fundamental Freedoms (1950): Section 21 of the Human Rights Act; and convention rights of potential relevance include Articles 6, 8 and 14 of that Convention, and Article 1 of the First Protocol (1952): section 1.

Article 6(1) provides that: “In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.” However, the preparation of a development plan will not generally determine civil rights: Bovis Homes Ltd v. New Forest District Council [2002] EWHC (Admin) 483.

Article 8 provides:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

However, cases such as Lopez Ostra v. Spain (1995) EHRR 277 and Hatton v. UK (2002) 34 E.H.R.R. 1 require there to be severe environmental pollution or harm for there to be a breach of Article 8(1) by virtue of planning-related issues.

Article 14 provides:

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

I note, too, that the Basic Conditions Statement (pp 23-27) also addresses the requirements of the Equality Act 2010.

Article 1 of the First Protocol provides:

(c) modifications that the examiner considers need to be made to secure that the draft plan complies with the provision made by or under sections 38A and 38B of this Act,²²

and²³

(e) modifications for the purpose of correcting errors.

(4) The report may not recommend that a plan (with or without modifications) is submitted to a referendum if the examiner considers that the plan does not—

(a) meet the basic conditions mentioned in paragraph 8(2), or

(b) comply with the provision made by or under sections 38A and 38B of this Act.²⁴

(5) If the report recommends that a plan (with or without modifications) is submitted to a referendum, the report must also make—

(a) a recommendation as to whether the area for the referendum should extend beyond the neighbourhood area to which the order relates, and

(b) if a recommendation is made for an extended area, a recommendation as to what the extended area should be.

(6) The report must—

(a) give reasons for each of its recommendations, and

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

The control of the use of property is to be construed in the light of the general principle in the first sentence: James v. UK (1986) 8 EHRR 123, 140 (paragraph 37). The test may be stated as whether a fair balance (or proportionate approach) has been struck (taken) between the demands of the general (i.e. public) interest and the requirement for protection of the individual’s rights: see, for example, Fredin v. Sweden (No 1) (1991) 13 EHRR 784, paragraph 51.

²² See amendments to Schedule 4B effected by s.38C(5)(b)

²³ (d) is omitted by virtue of s.38C(5)(c).

²⁴ See amendments to Schedule 4B effected by s.38C(5)(b)

(b) contain a summary of its main findings.

(7) The examiner must send a copy of the report to the qualifying body and the local planning authority.

Overview of The National Planning Policy Framework

14. Set out below is a brief summary of relevant parts of the NPPF. The NPPF “provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.”²⁵
15. “The purpose of the planning system is to contribute to the achievement of sustainable development.”²⁶ The policies in NPPF paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.
16. There are three dimensions to sustainable development: economic, social and environmental.²⁷ These roles should not be considered in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.²⁸
17. Plans (and decisions) need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas.²⁹
18. “Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:

²⁵ NPPF paragraph 1.

²⁶ Paragraph 6. “The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development in England means in practice for the planning system.”

²⁷ Paragraph 7.

²⁸ Paragraph 8.

²⁹ Paragraph 10.

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area....;
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs....;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;

- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
 - take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.
19. Pursuing sustainable development requires careful attention to viability and costs in plan-making (and decision-taking). Plans should be deliverable.³⁰
20. Local Plans which are prepared in accordance with the guidance in the NPPF will be based on and reflect the presumption in favour of sustainable development.³¹ Neighbourhood plans should therefore reflect Local Plan policies, and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies. Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.³²

Overview of The National Planning Practice Guidance

21. Set out below is, again, a brief summary of the main relevant points for present purposes. As regards the preparation of NDPs, the guidance is that proportionate, robust evidence should support the choices made and the approach taken.³³
22. A neighbourhood plan can allocate sites for development. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria.³⁴
23. When considering the content of a neighbourhood plan proposal, an independent examiner's role is limited to testing whether or not a draft neighbourhood plan meets the basic conditions, and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The independent

³⁰ Paragraph 173.

³¹ The presumption is set out in paragraph 14 of the NPPF.

³² Paragraphs 16 and 184-5.

³³ 41-040 (11.2.16).

³⁴ 41-042 (6.3.14).

examiner is not testing the soundness³⁵ of a neighbourhood plan or examining other material considerations.³⁶

The Requirements of the 2012 Regulations and compliance

24. In summary, before submitting a plan proposal to the local planning authority, the qualifying body (SMPC) must have publicised it in a manner likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area, details of the proposals, where and when the proposals may be inspected, how to make representations and the date by which they must be received, consulting in addition those consultation bodies listed in paragraph 1 of Schedule 1 whose interests may be affected, as well as sending a copy of the proposals to the local planning authority.³⁷ **I find that there has been compliance with these Regulations.**
25. When the qualifying body (SMPC) thereafter submits a plan proposal to the local planning authority (WBC), it must include a map³⁸ or statement identifying the area to which the proposed neighbourhood development plan relates; a consultation

³⁵ NPPF paragraph 182 sets out the government's view of soundness. A plan must be

- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.

³⁶ NPPG 41-055 (6.3.14).

³⁷ Regulation 14. There have been some amendments to Regulation 14 which are not reflected in Schedule 2 of SM01/02 but nothing material appears to turn on this. For example Schedule 2 refers to consultation with the primary care trust. Regulation 14 (as amended by SI 2013/235 Schedule 2 Part 1, paragraph 168, with effect from 1st April 2013) refers in particular now to consultation with a clinical commissioning group (ccg). It was confirmed (email 2nd September 2016 from the Parish Clerk to West Berkshire Council), however, that: "The North and West Reading Clinical Commissioning Group and the Newbury and District Clinical Commissioning Group were contacted. No response was received from either body and hence no objection was registered. Due to an oversight these contacts were not recorded in Appendix 2 item xii page 10 of the regulation 14 'Pre-Submission Consultation' report (evidence Base 48)."

³⁸ See here: SM/02/03.

statement³⁹; the proposed NDP⁴⁰; a statement explaining how the proposed NDP meets the requirements of paragraph 8 of Schedule 4B of the 1990 Act⁴¹ (see paragraphs 6-8 above). Where, as here, it has been determined under regulation 9(1) of the Environmental Assessment of Plans and Programmes Regulations 2004 that the plan proposal is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment), a statement of reasons for the determination must be included.⁴² **I find that there has been compliance with these Regulations.**

26. Following receipt of the plan proposal the local planning authority must publicise (amongst other matters) the details of the plan proposal, where and when the plan proposal may be inspected, how to make representations, the date by when representations must be received (a minimum of 6 weeks from the date on which the plan proposal is first publicised); and notify any consultation body referred to in the consultation statement submitted in accordance with regulation 15 that the plan proposal has been received.⁴³ The local planning authority must then send the person appointed to carry out an examination the plan proposal, the documents referred to in regulation 15 and any other document submitted to the local planning authority by the qualifying body in relation to the plan proposal, the information submitted by the qualifying body in accordance with regulation 102A of the Conservation of Habitats and Species Regulations 2010 (as amended), and a copy of any representations which have been made in accordance with regulation 16.⁴⁴

I duly received copies of the representations made in response to the regulation 16 publicity.⁴⁵ At the hearing WBC formally confirmed that they had complied with all of the other requirements of regulation 16 and I so find.

³⁹ See here: SM/01/02. Regulation 15(2) provides that a “consultation statement” is a document which contains details of the persons and bodies consulted about the NDP, explains how they were consulted, summarises the issues and concerns raised by the persons consulted and describes how those issues and concerns have been considered and, where relevant, addressed in the proposed NDP.

⁴⁰ See here: SM/01/01.

⁴¹ See here: SM/01/03.

⁴² See, here, SM/02/01.

⁴³ Regulation 16.

⁴⁴ Regulation 17.

⁴⁵ SM/03/01.

I find that all of these requirements have been met, in accordance with provision made in regulations made by or under sections 38A and 38B of the PCPA 2004.

Scope of examination

27. As noted above, the principal issue is as to whether the draft NDP meets the “basic conditions”.
28. Many of the relevant legal principles established by case law have been summarised most recently by the High Court as follows:

“i) The examination of a neighbourhood plan, unlike a development plan document, does not include any requirement to consider whether the plan is “sound” (contrast s. 20(5)(b) of PCPA 2004) and so the requirements of soundness in paragraph 182 of the NPPF do not apply. So there is no requirement to consider whether a neighbourhood plan has been based upon a strategy to meet “objectively assessed development and infrastructure requirements”, or whether the plan is “justified” in the sense of representing “the most appropriate strategy, when considered against reasonable alternatives” and based upon “proportionate evidence”;

ii) Where it is engaged, the basic condition in paragraph 8(2)(e) of schedule 4B to TCPA 1990 only requires that the draft neighbourhood plan *as a whole* be in “general conformity” with the strategic policies of the adopted development plan (in so far as it exists) *as a whole*. Thus, there is no need to consider whether there is a conflict or tension between one policy of a neighbourhood plan and one element of the local plan;

iii) Paragraph 8(2)(a) confers a discretion to determine whether or not it is appropriate that the neighbourhood plan should proceed to be made “having regard” to national policy. The more limited requirement of the basic condition in paragraph 8(2)(a) that it be “appropriate to make the plan” “having regard to national policies and advice” issued by SSCLG, is not to be confused with the more investigative scrutiny required by PCPA 2004 to determine whether a local plan meets the statutory test of “soundness”;

iv) Paragraphs 14, 47 and 156 to 159 of the NPPF deal with the preparation of local plans. Thus local planning authorities responsible for preparing local plans are required to carry out a strategic housing market assessment to assess the full housing needs for the relevant market area (which may include areas of neighbouring local planning authorities). They must then ensure that the local plan meets the full, objectively assessed needs for the housing

market area, unless, and only to the extent that, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF *taken as a whole*, or *specific* policies in the NPPF indicate that development should be restricted (St Albans City Council v Hunston Properties [2013] EWCA Civ 1610; Solihull Metropolitan B.C. v Gallagher Estates Ltd [2014] EWCA Civ 1610).

v) Those policies in the NPPF (and hence the principles laid down in Hunston and Gallagher in the interpretation of those policies) do not apply to the preparation by a qualifying body of a neighbourhood plan. Although a neighbourhood plan may include policies on the use of land for housing and on locations for housing development, and may address local needs within its area, the qualifying body is not responsible for preparing strategic policies in its neighbourhood plan to meet objectively assessed development needs across a local plan area.”

The West Berkshire Core Strategy

29. The Development Plan, for present purposes, comprises the West Berkshire Core Strategy (2006-2026) (“WBCS”), which was adopted in July 2012, some four months after publication of the National Planning Policy Framework (NPPF); and the saved policies of the West Berkshire District Local Plan 1991-2006 (adopted September 2007) other than those replaced by WBCS⁴⁶. (The emerging Housing Site Allocations Development Plan Document has been the subject of an examination hearing but does not of course yet form part of the development plan.⁴⁷)
30. The WBCS covers the period 2006-2026. It was based on the then Regional Spatial Strategy for the South East (2009) which was subsequently revoked. It was agreed at the public hearing, and I find hereafter, that WBCS constitutes the strategic policies of the development plan.
31. The Core Strategy (2012) requires the delivery of at least 10,500 net additional dwellings and associated infrastructure over the period 2006 to 2026 (Area Delivery Plan Policy 1).
32. Development is to follow the existing settlement pattern and comply with the spatial strategy set out in the Area Delivery Plan (“ADP”) policies based on the four spatial

⁴⁶ See Appendix F of the WBCS.

⁴⁷ the document envisages⁴⁷ that the Stratfield Mortimer NDP will allocate a site or sites to provide some 110 dwellings and that the NDP will review the settlement boundary of Mortimer.

areas. Most development is to be within or adjacent to settlements in the defined hierarchy and related to the transport accessibility (especially by public transport, cycling and walking) of the settlements. The scale and density of development will be related to the site's current or proposed accessibility, character and surroundings.

33. Mortimer is identified as a Rural Service Centre – the second tier in the hierarchy of settlements⁴⁸ – which are described as having “a range of services and reasonable public transport provision – opportunities to strengthen role in meeting requirements of surrounding communities.”
34. Mortimer lies in the East Kennet Valley (the fourth spatial area of WBC's area) which is the name given to the rural south-east of the District that lies to the east of Thatcham and outside of the AONB. ADP Policy 6 proposes the provision of approximately 800 dwellings over the plan period in that area. “The relatively low growth proposed for this area of the District reflects the more limited services and poorer transport connections. At March 2011 there had already been considerable housing commitments and completions in the East Kennet Valley, leaving only about 320 dwellings to be allocated.”
35. I was informed⁴⁹ by the Council at the examination that: as at March 2016 some 505 of the approximate 800 dwellings sought in the East Kennet Valley (“EKV”) had been completed, leaving 295 to be completed.
36. Permissions in total for 200 dwellings already exist, and a windfall allowance is made in addition by WBC for 34 dwellings in the 5 year period to the end of March 2021, based on evidence of windfall completions in the past 5 years. WBC considered that it may reasonably be assumed that a similar windfall allowance may be made for the subsequent 5 year period to 2026.
37. The submitted Housing Site Allocations DPD (HSA DPD) proposes a further 300 dwellings for the period to 2026 in the EKV (160 in Burghfield Common, 30 in Woolhampton; and, via the NPD, 110 in Stratfield Mortimer). I was informed by WBC at the public hearing that there had been no dispute at the HSA DPD examination concerning the distribution of residential development nor as to the quantum of development proposed for Stratfield Mortimer.

⁴⁸ below ‘Urban Areas’.

⁴⁹ and this was confirmed by a written note from WBC entitled “Housing Numbers in the East Kennet Valley”.

38. The total further supply is thus potentially, assuming that all come forward, 534 dwellings which would give a total level of potential completions for EKV in the plan period of 1,039, i.e. 200 or more dwellings above the approximate figure of 800.
39. Stratfield Mortimer itself has contributed 144 dwelling completions since 2006/7 (this figure includes the final completions on a District Local Plan housing site (Strawberry Fields) of 61 in 2006/7). There are 18 outstanding commitments for Stratfield Mortimer Parish⁵⁰. An additional 110 dwellings (and likely further windfall developments during the plan period) would mean that the total number of completions in Stratfield Mortimer would accord with its role as a rural service centre.
40. The Core Strategy further envisages that:
- “The two identified rural service centres of Burghfield Common and Mortimer will be the focus for development in this area, together with the more modest development of the identified service village of Woolhampton. Development may take the form of small extensions to these villages, based on information set out in the SHLAA, which has shown a 'basket' of potentially developable sites from which to select through the Site Allocations and Delivery DPD.”
41. Core Strategy Policy CS1 provides that an update of the Strategic Housing Market Assessment (SHMA) to accord with the requirements of NPPF paragraph 159 (to assess the full housing needs) will be undertaken within 3 years of the adoption of the Core Strategy; and “if the updated SHMA indicates that housing provision within the District needs to be greater than currently planned, a review of the scale of housing provision in the Core Strategy will be undertaken”.
42. Policy CS1 also expressly acknowledges that “greenfield sites will need to be allocated adjoining settlements in all four of the spatial areas to accommodate the required housing. Taking into account the SHLAA [Strategic Housing Land Availability Assessment], updated by any further evidence, such sites will be selected to achieve the most sustainable pattern of development consistent with the other policies in the Core Strategy.” WBCS envisaged at the time that the Site Allocations and Delivery Development Plan Document would allocate such sites and review all settlement boundaries. The submitted HSA DPD now proposes that the NDP for

⁵⁰ I note that on 24th August a further net 9 dwellings were resolved to be granted by WBC's Eastern Area Planning Committee on the Tower site.

Stratfield Mortimer will allocate sites there and review the Mortimer Settlement Boundary.

43. Policy CS4 provides that residential development will be expected to contribute to the delivery of an appropriate mix of dwelling types and sizes to meet the housing needs of all sectors of the community, including those with specialist requirements. The mix on an individual site should have regard to: the character of the surrounding area; the accessibility of the locations and availability of existing and proposed local services, the evidence of housing need and demand from Housing Market Assessments and other relevant evidence sources. Lower density developments below 30 dwellings per hectare will be appropriate in certain areas of the District. Some villages are particularly sensitive to the impact of intensification and redevelopment because of the prevailing character of the area, the sensitive countryside or built form, and/or the relative remoteness from public transport.
44. Policy CS5 provides that key infrastructure schemes required to secure the delivery of the Core Strategy include those set out in Appendix D of the WBCS. These include a district-wide requirement for up to 40% affordable housing to be provided as part of new residential development. CS6 makes further provision in respect of affordable housing.
45. Policy CS9 directs B1(c), B2 and B8 business development to defined protected employment areas and existing, suitably located employment sites and premises; outside these areas/locations proposals will be assessed with regard to the compatibility with and impacts on uses in the area surrounding the proposals; and capacity and impact on the road network and access by sustainable modes of transport. New office development will generally be directed to town and district centre and the scale will be appropriate to the size and character of the centre.
46. Policy CS10 provides that proposals to diversify the rural economy will be encouraged, particularly where they are located in or adjacent to Rural Service Centres and Service Villages. Existing small and medium sized enterprises within the rural areas will be supported to provide local job opportunities and maintain the vitality of smaller rural settlements.
47. Policy CS11 provides that the vitality and viability of local and village centres (to be confirmed by the Site Allocations and Delivery DPD) will be protected and enhanced. (Since Mortimer is a Rural Service Centre, this is highly likely to be regarded as a local centre.)

48. Policy CS13 provides that development that generates a transport impact will be required in particular to reduce the need to travel, improve and promote opportunities for healthy and safe travel and improve travel choice and facilitate sustainable travel.
49. Policy CS14 provides that new development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area, and makes a positive contribution to the quality of life in West Berkshire.
50. Policy CS15 (Sustainable construction and Energy Efficiency) sets out minimum standards of construction for residential and non-residential development.
51. Policy CS16 (flooding) provides that the sequential approach in accordance with the NPPF will be strictly applied across the District.
52. Policy CS17 (biodiversity and geodiversity) provides that biodiversity and geodiversity assets will be conserved and enhanced.
53. Policy CS18 provides that the District's green infrastructure will be protected and enhanced.
54. Policy CS19 provides that in order to ensure that the diversity and local distinctiveness of the landscape character of the District is conserved and enhanced, the natural, cultural and functional components of its character will be considered as a whole. Particular regard will be given for example to the sensitivity of the area to change. Proposals for development should be informed, amongst other things, by and respond to the distinctive character areas and key characteristics identified in relevant landscape character assessments including Historic Landscape Characterisation and Historic Environment Character Zoning for West Berkshire; and features identified in community planning documents such as Parish Plans.

The submitted draft NDP - overview

55. The draft NDP records that:

“The overwhelming view is that Mortimer is a rural village with a distinctive identity and character, and a good community spirit. It is this view that people want to be able to keep going forward. This is not to say that they are opposed to change but rather that change should be managed sensitively in order to improve matters where possible and to mitigate any downsides to development.

This view was summarised and supported through the consultation process in the form of three principles. These are:-

1. The NDP must make it possible for people to live the whole of their lives in the parish if they so wish
2. The NDP will ensure that new residential developments will be within or adjacent to the existing Settlement Policy Boundary and, ideally, close to the centre of the village (the centre is taken to be St John's Church)
3. The NDP will allocate and reserve land to make provision for the future needs of the parish with respect to schools and health/welfare infrastructure."

56. The stated Vision in the draft NDP⁵¹ incorporates 1. above and adds:

"The rural character and setting of the parish will remain with the minimum of intrusion on the existing surrounding green and agricultural space."

57. I note, too, that the explanatory text in particular refers to "retaining the best landscape and architectural features of the parish."⁵²

58. These principles are considered by SMPC to find expression, in particular, in the proposed allocation of land behind St John's Infant School (referred to in the NDP as "The Site") for 110 homes with a mix of types and tenures and the allocation of 1 hectare of this site for a new and larger St John's Infant School and doctors' surgery.⁵³

59. The NDP also explains that:

"In order to protect the village feel of Mortimer, specific policies have been included to address design features of new development, for example:

- Propose relevant housing densities that retain the village feel
- Require new developments to be designed in sympathy with the village ethos
- Are not lit or only lit at a low level
- Have sensible access and parking standards

⁵¹ P.16, paragraph 5.2

⁵² Ibid.

⁵³ Policy SDB1.

- Reduce the risk of flooding
- Produce net environmental gains by increasing biodiversity.”

60. The existing Mortimer Settlement Boundary (“MSB”) is proposed to be amended to include The Site (save for an area of land at the southern end of the proposed allocation which is proposed⁵⁴ for publically accessible landscaped open space).

61. There is a presumption in favour of residential development within the new MSB.⁵⁵ Proposals for housing development outside the MSB will only be granted in exceptional circumstances.⁵⁶

62. Preparation of a Site Design Brief is encouraged for all new developments within the MSB and required for housing development proposals outside the MSB.

63. The creation of additional business accommodation is generally directed to sites close to the commercial centre and within the MSB or by way of reuse of farm or rural buildings.⁵⁷

64. As noted above⁵⁸, it was agreed at the public hearing that the Core Strategy comprises the strategic policies of the development plan and did not include any of the ‘saved’ policies of the West Berkshire District Local Plan; and I so find. There was no suggestion by anyone that the draft NDP was other than in general conformity with the strategic policies of the development plan; and it is clear from the summary above of the WBCS and of the draft NDP that **the draft NDP is in general conformity with the strategic policies of the development plan; and I so find.**

The public hearing – issues, evidence and findings

65. Having considered the documents received,⁵⁹ I issued a Note, dated 12th June 2016, in which I indicated that I considered that oral representations at a public hearing would be necessary to ensure adequate examination of a number of issues. The

⁵⁴ Policy SDB4, 4th bullet point.

⁵⁵ Policy RS3.

⁵⁶ Policy RS2.

⁵⁷ Policies C5-C7.

⁵⁸ Paragraph 30.

⁵⁹ The list of documents I received is set out in the Appendix to this report.

public hearing was held on 24th and 25th August. I undertook a full, accompanied visit to Stratfield Mortimer, having undertaken an unaccompanied visit on 23rd August.

66. In my Note I raised the following issues:

- a. **clarification on the progress by West Berkshire Council towards the delivery of (at least) 800 dwellings in the East Kennet Valley area in the period 2006-2026, as required by the Core Strategy; Mortimer's contribution so far to this total; and whether the distribution of the 800 dwellings within the East Kennet Valley is a matter in dispute at the examination of the Site Allocations DPD.**

67. The further information provided orally to me, and which I accept and find, is recorded at paragraphs 17-21 above and in a document prepared by WBC entitled "Housing Numbers in the East Kennet Valley".⁶⁰ In consequence, I am satisfied that the draft NDP properly proposes to deliver 110 dwellings.

- b. **clarification concerning residential site selection in the draft NDP.**

68. This issue has caused me considerable concern, in particular in respect of the regard had to the landscape and visual impacts of the proposed development of The Site. By way of overview, it is clear to me in the light of all the evidence that no regard has been had by SMPC to 2 relevant landscape assessments when resolving that The Site be allocated for 110 dwellings. Regard was only had to the Historic Landscape Characterisation Sensitivity Map. Moreover, although the Steering Group was advised by one of its members to take the advice of a landscape architect, it did not do so.

69. Whilst SDB4 would require a Landscape and Visual Impact Assessment to be carried out to inform the design and layout before development on The Site takes place, the achievement of 110 dwellings will by then be a given because The Site would already be an allocation. Whilst there was discussion at the public hearing as to whether the requirement in SDB1 could and should be amended to "up to 110 dwellings", to allow for fewer than 110 dwellings to be accommodated should 110 not be found to be appropriate, I cannot determine on the evidence before me what the extent of that shortfall might be; and thus whether the draft NDP could deliver 110 dwellings.

70. Following the public hearing a preliminary landscape analysis was submitted to me on behalf of the prospective developer of The Site without an application to me for it

⁶⁰ See the document list in the Appendix to this report.

to be considered. The preliminary analysis had, it appears, been prepared post submission of the NDP and only completed after the public hearing.⁶¹ I have considered the preliminary assessment on an entirely provisional basis. It was immediately clear that the analysis, which concluded that “significant development” could be accommodated on The Site, still made no reference at all to one of the relevant landscape assessments.

71. If the evidence had been that, irrespective of the outcome of a landscape appraisal of The Site, The Site must be allocated for 110, or approximately 110, dwellings if a new school and surgery and 40% affordable housing were viably to be achieved on The Site, I would in those circumstances have recommended that the draft NDP’s proposals for The Site be submitted to referendum, with modifications; since development of The Site would then have been necessary to achieve the housing requirement and to help to ensure the achievement of other important aspirations; and no other site put forward had physical capacity on its own to provide 110 dwellings.
72. However, following my request for clarification of the position at and following the examination, the landowner and proposed developer of The Site have fairly confirmed that in principle a development of about 60 units would be viable even with the provision of affordable housing and land set aside for the school and surgery.⁶² Thus allocation of The Site for 110 dwellings may not necessarily be essential.
73. In these circumstances, I cannot recommend that the draft NDP be submitted to referendum, with or without modifications.
74. Consideration should in my view have been given to the landscape and visual impacts of potential sites. An appraisal (it need not have been a full and formal LVIA) was required. Regard should have been had in particular to the landscape assessments.
75. As just one example, upon analysis it may be found to be appropriate for The Site to accommodate about 60 dwellings, a school and a surgery; and for West End Road to accommodate the 47 or so dwellings envisaged by the HSA preferred options draft.

⁶¹ Email Mr Lyttle to me dated 20th September.

⁶² Letter from Pro Vision to Ms Lancaster dated 28th September 2016.

76. Having summarised my concern I now consider below the evidence in more detail. I have already noted above:

- (i) the recognition in NPPF of the interdependence of the economic, social and environmental dimensions of sustainable development;
- (ii) the stated aim of the NDP of “retaining the best landscape ... features of the parish”;
- (iii) that Core Strategy Policy CS 19 provides strategic policy for the conservation and enhancement of the natural and historic environment, including landscape, consistently with NPPF paragraph 156; and provides that proposals for development should be informed by and respond to, in particular, “the distinctive character areas and key characteristics identified in relevant landscape character assessments including Historic Landscape Characterisation for West Berkshire and Historic Environment Character Zoning for West Berkshire”.

Whilst The Site is a proposed allocation, consideration of the potential landscape impacts before allocating a site, indeed the only site, is of course essential.

I also note that, consistently with the foregoing, the accompanying text provides:

“5.138 There are a number of relevant landscape assessments covering the District, including the North Wessex Downs Area of Outstanding Natural Beauty Landscape Character Assessment, the Berkshire Landscape Character Assessment and the Newbury District Landscape Assessment. LCA is particularly valuable when looking at landscape sensitivity, whether that be the inherent sensitivity of the landscape itself, or its sensitivity to a particular type of change.

5.139 In addition, Historic Landscape Characterisation and Historic Environment Character Zoning will be used by the Council to inform and support planning decisions....’

- (iv) that the NPPF also advises that allocations of land for development should prefer land of lesser environmental value, where consistent with other

policies in the Framework⁶³; that planning should “recognis[e] the intrinsic character and beauty of the countryside ...”⁶⁴; that “where appropriate, landscape character assessments should also be prepared, integrated with assessment of historic landscape character ...”⁶⁵ (emphasis added)

- Landscape assessments

77. WBC’s Historic Landscape Characterisation Sensitivity Map⁶⁶ shows The Site⁶⁷ (and, for example, land adjoining West End Road⁶⁸, but not land at Kiln Lane⁶⁹) to be of “low sensitivity”. The Parish Council (and WBC) had regard to this document alone.

78. The HLC (2004-2007) classified all land parcels in the Borough into some 60 or more different landscape types, from types such as “hospitals”, “major roads”, “cemetery”, to “gallops”, “market gardens”, “new field”, to “C18th settlement” and “designed landscape”. Each type was then attributed a significance taking into account “the contribution of the Type to the landscape, both modern and previous, and a professional judgement of the importance and interest of the HLC Type, e.g. *ancient woodlands* being seen as more significant for historic landscape character than *land restored following gravel extraction*.” “The susceptibility to damage of each HLC Type was termed Fragility. This was taken to be an indicator of how much effort would be required to entirely destroy a Type. A Sensitivity rating for each HLC Type was then generated by calculating the product of the *Significance* value and the *Fragility* value.” (underlining added) The Site is categorised under ‘enclosures and farming’ as ‘amalgamated fields’.⁷⁰

⁶³ See NPPF paragraphs 17 and 110.

⁶⁴ NPPF paragraph 17.

⁶⁵ NPPF paragraph 170.

⁶⁶ SM/06/03. The West Berkshire Historic Landscape Sensitivity – The Assessment Methodology (<http://info.westberks.gov.uk/CHttpHandler.ashx?id=27345&p=0>) states that Historic Landscape Characterisation is “a GIS based tool for understanding the historic and archaeological dimension of our present day landscape”.

⁶⁷ SHLAA site MOR006

⁶⁸ SHLAA reference MOR005

⁶⁹ SHLAA Reference MOR001

⁷⁰ Confirmed in an email from Mr Lyttle to me dated 20.10.16.

79. I queried whether the “professional judgment” referred to had been informed by the Newbury District-Wide Landscape Assessment and/or the Berkshire Landscape Character Assessment. The response was that: “The ‘professional judgement’ referred to is the professional judgement of the Council’s archaeology team. The Newbury District Landscape Assessment and the Berkshire Landscape Character Assessment did not form part of the HLC sensitivity assessment and nor would they have been expected to.”⁷¹
80. Whilst historic landscape characterisation of parcels of land is of course important, so too are the Landscape Assessments, as implicitly recognised by the WBCS.
81. The Newbury District-Wide Landscape Assessment (1993) (“NDLA”), which was not considered by the Steering Group or Parish Council, assesses The Site as straddling 2 different landscape character types and areas: 13. Gravel Plateau Woodlands with Pasture and Heaths; and 14. Plateau Edge Transitional Matrix.
82. The former (no.13) covers broadly the northern third of The Site. Its key landscape characteristics of present relevance include “flat to undulating plateau with abrupt edge escarpments, linear settlements ... and some sub-urban areas.”
83. The latter (no.14) is “closely linked to the former” and “generally occurs immediately adjacent to it on the escarpment slopes ...”. **“This is one of the most interesting and varied of the District’s landscape character area. The mixture of woodlands, pasture and open farmland includes some of the most delightful countryside ... it is generally easily accessible on foot. ... This is a visually and environmentally important landscape type, and further development for residential use is already spoiling parts of it ...”** (my underlining)
84. Whilst at the public hearing it was suggested by WBC that the NDLA was a high-level assessment, it is notable that a change in landscape character/type was discerned by the authors of the NDLA to occur on The Site itself.
85. I have also considered the Berkshire Landscape Character Assessment (2003) (“BLCA”). Again, this was not considered by the Steering Group or Parish Council. This was a strategic, county-wide study prepared for the purposes of the then

⁷¹ Email from Mr Lyttle to me dated 20.10.16.

emerging County Structure Plan, undertaken at 1:50,000 scale, to provide “a context for the development, where required, of more detailed district-level assessments by the six unitary authorities within Berkshire.” (paragraph 1.9) The NDLA already existed. It was envisaged that district-level assessments “will identify the landscape character in more detail (detail which is often inevitably absent at a strategic scale)”. (paragraph 1.10) Again, at paragraph 1.21 it is stated that in the BLCA county-wide assessment “emphasis has been placed upon the definition and subdivision of the landscape at Landscape Type level i.e. the identification of the variety of landscapes within Berkshire. Indicative character areas have also been determined. These will be verified and accurately defined by future detailed district-level studies (e.g. at 1:25,000 scale) ”

86. Reference is made at paragraph 1.19 to a review of the NDLA having been undertaken and its boundaries mapped. The NDLA maps are at 1:20,000 scale. It appears from the BLCA map for Type H: Woodland and Heathland Mosaic – H5 Burghfield that the NDLA’s Gravel Plateau Woodlands with Pasture and Heaths and Plateau Edge Transitional Matrix fall, with reference to Mortimer, within this same BLCA landscape type. H5 is regarded as having a moderate character. I note that it advises in particular that positive management of land on the fringes of settlement is required.

87. I have noted above that the Core Strategy, in its supporting text to Policy CS 19, refers to both the NDLA and the BLCA as “relevant landscape assessments”; and states that “LCA is particularly valuable when looking at landscape sensitivity, whether that be the inherent sensitivity of the landscape itself, or its sensitivity to a particular type of change. In addition, Historic Landscape Characterisation and Historic Environment Character Zoning will be used by the Council to inform and support planning decisions.” I have referred too to Policy CS19 above. In my view, regard should have been had to both landscape assessments and HLC so that the sensitivity of the landscape to change and its capacity could be ascertained.

- Consideration of sites by WBC and the Parish Council

88. In December 2013 WBC’s Strategic Housing Land Availability Assessment (“SHLAA”) considered the potential development of The Site⁷² for 177 dwellings (alone) across the whole site at a density of 30 dwellings per hectare.

⁷² SM25/26, MOR006.

89. As that document makes clear⁷³:

“The Strategic Housing Land Availability Assessment (SHLAA) lists and maps sites within West Berkshire that may have potential for housing development. Most of the sites are submissions from landowners and developers for possible future development potential. It is important to note they are NOT sites allocated for development. The decisions regarding which sites will actually be allocated will be made in the Local Plan documents that will be subject to full public consultation before any decision is made.

The SHLAA includes estimates of housing potential on individual sites. These are not based on detailed designs so should not be assumed as acceptable for the purposes of development control decisions and should not prejudice any decision that may be made on the site at a later date. ...

This assessment does not indicate or determine whether a site should be allocated for development. Instead it is an evidence source to inform the development plan process and provides background evidence on the possible availability of land within West Berkshire. ...

The SHLAA does not make recommendations on which of these sites should be developed for housing but makes a preliminary assessment of their suitability and potential for accommodating housing in the future.”

90. In that context, The Site was considered to be “potentially developable” (in years 11-15 years) but: “Potential landscape impact” was noted.⁷⁴

91. In February 2014 the Parish Council expressed its view of the SHLAA sites to WBC, for example that 170 dwellings was too many for The Site, that West End Road site was “not well related to the main area of the village”.

92. WBC Site assessment, commentary and sustainability appraisal/strategic environmental appraisal⁷⁵ for that SHLAA development appraisal⁷⁶ noted that there

⁷³ Pp3-4.

⁷⁴ Ironically, slide 7 shown at the initial public meeting in March 2014 (SM37) referred to The Site and its “Landscape Character” constraints. It was annotated: “Important to read the ‘small print’”.

⁷⁵ SM60.

⁷⁶ I was informed by Ms Lancaster that SM60 was originally published in July 2014 as part of West Berkshire Council’s Preferred Options Housing Site Allocations DPD. The updated text (shown in

had been no landscape assessment. The relevant planning officer expressed the view, however, that there was unlikely to be an impact on the character of the landscape because the site was surrounded by residential development on three sides.

93. In the West Berkshire Housing Site Allocations Preferred Option (July 2014)⁷⁷ West Berkshire Council put forward 2 sites:

- (i) The Site. This was “considered to have potential for development on about half of the site – for approximately 100 dwellings” (alone), curiously again at about 30 dwellings per hectare. The area shown is largely, but not wholly, within the NDLA Gravel Plateau Woodlands with Pasture and Heaths. “Open space would be provided on site and appropriate landscape and biodiversity enhancements would be incorporated to ensure that the character of the area is conserved and enhanced.”
- (ii) Land adjoining West End Road⁷⁸ for approximately 47 dwellings (30 dwellings per hectare). “This site is close to local services and facilities and is surrounded by development on two sides ... Landscape and biodiversity enhancements would be incorporated into any scheme ...”

94. The Preferred Options put forward Option 1 - that the NDP would determine which sites were allocated; or Option 2 - that the Housing Site Allocations DPD document would allocate sites.

95. In July 2014 the Steering Group organised a Fun Day and exhibition. No residential sites were put forward at that stage. One of the suggestions to come out of this, I understand, was that The Site might also be used to accommodate a new/relocated school and doctor’s surgery.

96. In August 2014 the Steering Group resolved to support option 1 (paragraph 94 above).

97. At the Steering Group meeting on 26th September 2014 a member of the Group, a recently retired planning consultant, suggested employing a landscape architect “to

blue) was added in advance of the Proposed Submission Housing Site Allocations DPD in November 2015, but was not published in the final version of the HSA DPD as it had been agreed that the Neighbourhood Plan would be allocating sites.

⁷⁷ SM28.

⁷⁸ SHLAA reference MOR005.

help produce sites that best met the policies of the NDP.”⁷⁹ This suggestion was not, however, taken up. When I queried the reason for this at the public hearing, the view was expressed by members of the Steering Group present that it was considered that members of the public would be able to form their own view on landscape impacts. This was in my view an unfortunate decision, particularly given that the Steering Group had misunderstood the nature and limitations of the HLC and had not considered the NDLA.

98. On 16th January 2015 Bell Cornwell planning consultants⁸⁰ provided suggested densities for possible sites⁸¹. I understand⁸² that this document was used at, or at any rate informed the proposals presented to, the public exhibition in February 2015. I note that this suggested that 55-60 dwellings for The Site on 3.7 ha would be appropriate, although SMPC/the Steering Group still put forward The Site for 110 dwellings.

99. Three options were put forward for residential development: a single central site (The Site to include school and surgery) (the first option). I note that, in order to accommodate the school and surgery, the proposed residential development on The Site now extended much further to the south than envisaged by WBC’s Housing Sites Allocations Preferred Options DPD.

100. It was also noted in the “Residential – site selection” information that “at the exhibition in July 2014 there was a significant body of opinion that new homes should be provided on a series of smaller dispersed sites rather than one large one. This has been pursued and a dispersed site strategy has also been developed [the second option]. Possible sites are shown on the map ... This option would not support the school and surgery opportunities that the single large site offers.” West End Road was included as an option but on the basis that it would support only 25 dwellings⁸³. (By contrast WBC had considered 47 dwellings to be achievable at a density of 30 dph.)

⁷⁹ SM45. Minutes of Steering Group, paragraph 4.e.

⁸⁰ The retired planning consultant referred to in paragraph 97 had been a partner of that firm.

⁸¹ SM36.

⁸² SM06/06.

⁸³ SM36. Only sites considered capable of accommodating 10 to 30 dwellings were put forward for consideration as part of the second option (SM35 paragraph 7).

101. The third option was a mix of Options 1 and 2.
102. There were 786 postcard returns in total.⁸⁴ Only 137 (17.4%) of those 786 expressed a view on residential site options. Of those 137, 84 (61%, or approx. 10% of 786) supported the “one central site” option, 25 (18%, or 3% of 786) supported Option 3 (a combination of a dispersed sites option and a central site).
103. In April/May 2015 a Questionnaire was widely distributed. 3 principles were put forward:
- (i) the NDP must make it possible for people to live the whole of their lives in the parish if they so wish;
 - (ii) the NDP will ensure that new residential developments will be within or adjacent to the existing settlement envelope boundary and, ideally, close to the centre of the village;
 - (iii) to make the schools and health/welfare infrastructure proposed in (ii) effective for as long as possible, the NDP should allocate and reserve space near the centre of the village to enable the provision of them (when⁸⁵ approved and funded).
104. The residential options put forward were:
- a) St John’s site (The Site) only;
 - b) St John’s (The Site) for the majority of homes plus Kings Street (up to 10 dwellings) and infill;
 - c) Neither a) nor b).
105. 1285 responses were received in respect of the three principles. Respectively 80%, 73% and 79% principles (i) (ii) and (iii) (paragraph 86 above). As regards the residential options, 1228 responses were received: respectively 54%, 30% and 15% supported a) b) and c) (paragraph 104 above).

⁸⁴ SM39 also refers to written feedback from the exhibition, including 88 comments on the residential site options.

⁸⁵ I note, in passing, that this said “when” rather than if. At the time, “if” was probably more appropriate.

106. In October 2015 the Pre-submission NDP⁸⁶ was published for consultation with The Site alone proposed to be allocated. That remains the position in the submitted NDP.

107. I recognise fully of course that development on The Site (whether The Site alone or in combination with another site(s)) has a very considerable level of support and that the opportunity has been given throughout for other sites to be put forward. It is clear that the Steering Group's ("SG") preference since about November 2014 has been for The Site because of its location in the centre of the village, its accessibility on foot to shops and services, and the potential for the school and surgery also to be sited on The Site.

108. Nevertheless, it is clear in my view that there has been a failure by the Parish Council/Steering Group when formulating, and consulting on, its proposals properly to address the landscape and visual impacts of the amount of development proposed for The Site and other potential sites.

- Site visit

109. As regards The Site, on my site visit I noted the considerable variation in topography across the site, and beyond. This is illustrated in respect of The Site itself by the indicative (described as 'work-in-progress') plans (including sections)⁸⁷ which were helpfully provided to me, at my request, at the public hearing by the planning consultants acting for TA Fisher Ltd.⁸⁸

110. The Site slopes southwards by about 21 metres, from about 95m AOD to about 74m AOD. Although built development is not presently shown on the draft plans to extend further down the slope than 85 m AOD:

- (i) the southerly extent of the development as shown would extend very substantially into NDLA's Plateau Edge Transitional Matrix;
- (ii) the western and eastern halves of this extended area of development would necessarily be separated by a noticeable, intervening 'valley' feature which

⁸⁶ SM06/04.

⁸⁷ Drawings EIP 01-05. These of course relate only to the residential development of The Site, and do not include the proposed school and surgery to the north-west.

⁸⁸ I was informed that TA Fisher Ltd has an option from the Englefield Estates (the landowner) over The Site.

would make development of 2 storey dwellings above and projecting southwards on either side noticeable and prominent; in addition to which the land continues to fall away southwards by some 11 m in height (this is where the area of open space is proposed).

111. I also noted in particular the views of The Site from the footpath to the south (from Drury Lane north-eastwards) of, and running along the eastern side of The Site.⁸⁹ These bear out, in my view, the NDLA assessment of the character of the Plateau Edge Transitional Matrix so far as it relates to The Site and its southern setting.

112. Whilst existing development of course exists to the west and east of The Site (and permission has been granted for development to the north of The Site), the breadth and size of The Site, the existence of woodland to the west and trees along the eastern boundary mean, in my view, that the southern part of The Site still contributes meaningfully to the Plateau Edge Transitional Matrix. As noted already, the NDLA states: “This is one of the most interesting and varied of the District’s landscape character area. The mixture of woodlands, pasture and open farmland includes some of the most delightful countryside ... it is generally easily accessible on foot. ... This is a visually and environmentally important landscape type, and further development for residential use is already spoiling parts of it ...”

113. I should also add that my site visits included the Kiln Lane and West End Road sites. Although I have of course no detailed information, at first sight I can well understand, and have no reason to doubt, the respectively unfavourable and favourable, observations with regard to these sites made by WBC as set out in the Housing Sites Allocations Preferred Options DPD.⁹⁰

- The public hearing

⁸⁹ See, too, the Photographs referred to in Enderby Associates Preliminary Landscape Appraisal which were sent to me on 26th September 2016.

⁹⁰ SM61 pages 26 and 27. I was also informed that an outline application for residential development of up to 50 dwellings on the Kiln Lane site (the Monkey Puzzle Field) was refused planning permission by WBC by decision notice dated 11th May 2016. I note in particular reason for refusal number 2 and that the application was accompanied by an LVIA. I also note that, apart from the north-western corner, that site also falls within the NDLA’s Plateau Edge Transitional Matrix, as well as having a high sensitivity in terms of historic landscape characterisation.

114. I was informed at the hearing that TA Fisher Ltd (who have an option in respect of The Site), had instructed a landscape architect only in May 2016 (i.e. after the NDP had been submitted for examination). It was accepted that the landscape architect's remit had not been to assess whether development of The Site for 110 dwellings would be appropriate in terms of landscape and visual impacts. Understandably the landscape architect had in effect taken as a given the proposal in draft Policy SDB1 for 110 dwellings, a school and surgery etc; although I was informed that, following a site walk-over, the view had been expressed that impacts would not be adverse.
115. Subsequently, I was sent and impliedly asked to consider a "preliminary landscape analysis" by TA Fisher's agent, prepared by Enderby Associates. As previously indicated I have considered this document on a provisional basis. It has not hitherto been in the public domain and thus has not been available for comment by others. It could only have been submitted as relevant on the basis that, although regard had not been had by the NDP to relevant landscape character assessments, in fact there would not be unacceptable landscape and visual harms and the making of the NDP would therefore be appropriate and would contribute to the achievement of sustainable development.
116. Importantly, however, the "initial study" makes no reference at all to the NDLA, only to the BLCA. This is a significant omission in my view, particularly after extracts from the NDLA had been provided to me and briefly discussed at the public hearing. This causes me to be even more wary of placing significant weight on this 2 page initial study.
117. The initial study, expressly based on site visits during summer months only – i.e. when leaves are on trees - sets out "preliminary conclusions" that the site offers "scope to accommodate" "significant development" "without material harm to the character of the landscape beyond the site and wider views". It does not in terms state⁹¹ that as many as 110 dwellings could be accommodated without material harm.⁹²

⁹¹ Cf email from Ms Miles of Pro Vision to Ms Lancaster dated 8th September 2016 which opines that 110 could be accommodated.

⁹² I note that Pro Vision's letter to Ms Lancaster dated 28th September reference is made to a lack of "significant adverse effects."

118. Moreover, whilst I was initially prepared to assume that it was to be so interpreted, I note that in fact the initial study acknowledges that “careful consideration” will be required to determine “the form and extent of development”, how this relates to the steeper sloping land within the southern part of the site, and to the development of a suitable landscape strategy to assimilate the scheme particularly in views from the proposed open space and the existing public footpath to the south. This suggests that as many as 110 dwellings may well not be achievable from a landscape and/or visual impact perspective.
119. It further concludes that “the direct landscape effects of the development are likely to be confined to the site, with some slight to moderate adverse short to medium visual effects on views from the footpath to the south of the site. There will be more significant short to medium, and potentially long term effects on the experience and visual amenity of the footpath along the eastern side of the site.”
120. Whilst I take as starting points (1) that a greenfield site or sites outside the Mortimer Settlement Boundary will inevitably be required to provide 110 dwellings; (2) that allocation of The Site would provide an important opportunity to reserve land for the hoped-for provision of a new infants’ school and surgery; (3) that the *historic* landscape sensitivity of The Site has been objectively assessed as low, the lack of consideration given to the NDLA means that I cannot conclude on the basis of the evidence before me that, having regard to the NPPF, the development of The Site for 110 dwellings, a new school and surgery would be appropriate and enable the draft NDP to contribute to the achievement of sustainable development.
121. I bear in mind, too, Historic England’s concern, expressed both in writing and again at the public hearing, that the layout should first be informed by an archaeological assessment (the conclusions of which could also affect the number of dwellings achievable).
122. In response to a direct question from me the landowner and proposed developer of The Site have now confirmed that in principle a development of about 60 units would be viable even with the provision of affordable housing and land set

aside for the school and surgery.⁹³ Thus allocation of The Site for 110 dwellings is not necessarily essential.⁹⁴

123. As noted above, at the public hearing there was discussion as to whether the first bullet point of Policy SDB1 should be modified to read: “the Site shall provide up to 110 dwellings, subject to the outcome of technical studies”, so that the design and layout could be informed by the conclusions and recommendations of a Landscape and Visual Impact Assessment and by the conclusions of an archaeological assessment (as a minimum, and field evaluation if required)).

124. Policy SDB4 states that the scheme for the Site will be further informed by a full and detailed Landscape and Visual Impact Assessment, but in this case, in my view, that is to put ‘the cart before the horse’. Given the NDLA, until there has been an appraisal of landscape and visual impacts I am not able to determine how many dwellings can appropriately be achieved on The Site and the extent of any shortfall; nor therefore as to whether the 110 dwellings the NDP aims to provide can be delivered.

125. In the circumstances of this case, in particular the NDLA, and having regard to the NPPF, I am not satisfied that the draft NDP, of which The Site (and proposals therefor) is such a central part, is appropriate and will contribute to the achievement of sustainable development.

126. I wish to make it clear that I fully acknowledge the work that has been undertaken in respect of the draft NDP and the support for The Site; and my recommendation that the proposal for the NDP be refused is not put forward lightly.

- Declarations of interest

127. I noted from the documents before me that there had been some concern that interests had not been formally declared at meetings of the Steering Group, at any rate before February 2015. This concerned 3 members of, and thus

⁹³ Letter from Pro Vision to Ms Lancaster dated 28th September 2016.

⁹⁴ This showed, with respect, that the assumption made by WBC’s Planning and Transportation Policy Manager in his email to me on 20th September 2016 was misplaced; and the importance therefore of direct communication with the landowner and developer.

approximately half of, the Steering Group. I therefore raised this matter at the public hearing.

128. From the outset the Terms of Reference for the Steering Group⁹⁵ made it clear that all members of the Steering Group were to “abide by the principles and practice of the Stratfield Mortimer Parish Council Code of Conduct including declarations of interest.” Indeed the likely inclusion of this requirement had been expressly mentioned at a meeting of the Steering Group on 9th May 2014. At the public hearing it was suggested that it had not been thought that this applied to non-Parish Councillor members of the Steering Group. This is directly at odds with the Terms of Reference.

129. I am satisfied, however, that, whilst declarations should have been made from the outset, especially given the pivotal role of the Steering Group in formulating and presenting proposals both to the Parish Council and to the public, declarations were made on appropriate occasions after February 2015, and the names and general location of residence of members of the Steering Group were also put on the NDP website.

130. Moreover I had the benefit of hearing directly from 4 members of the Steering Group. I have no doubt at all as to the integrity of the members of the Steering Group. I am satisfied that the proposals put forward were not in fact influenced by any improper considerations.

c. the planning implications (if any) of non-delivery of the surgery and school on The Site.

131. At the hearing TA Fisher Ltd’s agent informed me that they are contractually obliged by the option agreement they have with the owner of The Site (the Englefield Estate) to provide gratis 1 hectare of land for the new school and surgery. They also confirmed that the whole scheme for the provision of this land and the provision of 110 homes⁹⁶ with 40% affordable housing would be viable.

⁹⁵ SM11. Adopted by the Parish Council on 10th May 2014.

⁹⁶ As already noted, there has been subsequent confirmation that a development of about 60 dwellings would also be viable.

132. I was informed at the public hearing that the need for a new infant school is now being treated by WBC as a “critical” level of priority to reflect the need to accommodate the level of housing proposed in Mortimer. (I understand that the School is already at capacity and does not meet standards for play space.) This is confirmed in the Infrastructure Delivery Plan (“IDP”) Appendix A Schedule (April 2016)⁹⁷ and it is stated that “the facilities, in whole or part, will need to be in place prior to the occupation of first dwelling as insufficient capacity in existing provision.”⁹⁸ At the hearing WBC indicated that the provision of temporary additional accommodation might well be regarded as constituting “facilities being in place” and thus enable the delivery of housing on The Site to be achieved sooner.
133. I was informed that WBC are undertaking a project to seek to enable the education needs of Mortimer to be met; and the Oxford Diocese will be undertaking a project to consider whether St Mary’s Primary and St John’s Infant Schools should be amalgamated.
134. At this moment there is no certainty as to whether or when a new school will come forward. TA Fisher Ltd’s agent informed me that reports in support of an application for planning permission were being prepared and that an application was likely to be made in 2017. The wording of SDB1⁹⁹ makes provision for a review of the allocation if progress has not been made to secure the relocation of the infant school; but SMPC stressed, and I accept, that when this wording had been put forward, the wording of the IDP in particular had not been known.
135. That a new school is now confirmed as being a critical priority by WBC is unlikely to have changed, even if relocation has not been secured, by the end of the 5 year period referred to. SMPC confirmed that it should not be assumed that the need will have disappeared and that the 1 hectare (or any part of it) would then simply be released for housing: the proposals had not been publicised in respect of the proposed allocation of The Site on the basis that it would lead to perhaps another 30-40 dwellings in addition. Moreover, it should not be forgotten that The Site provides a unique opportunity to secure the twin benefits of a new school and a surgery in a central location in the village.
136. As to the reservation of land for a possible proposed surgery, the IDP Schedule regards improvements to GP premises in Mortimer to be at a “necessary”

⁹⁷ Page 56.

⁹⁸ I was informed by WBC at the hearing that the provisional temporary additional accommodation may allow housing development to proceed in the interim.

⁹⁹ 3rd bullet point

level of priority. The existing site is already physically constrained, as I observed on my site visit. There is a need for more doctors to achieve a normal GP/Patient ratio. It is likely that the existing pressures and demands will grow with the increase in dwellings. Moreover I was informed that there was likely to be devolution of more medical procedures from hospitals to surgeries in the coming years. The issue of funding is, again, still to be resolved.

d. the achievability of 110 dwellings and associated infrastructure on The Site consistent with good design and layout, taking into account in particular the topography of The Site.

137. I have already referred to this under b. above. A number of representations from those living in St John's Road to the west of The Site also expressed concerns as to the impact on the outlook from their properties. I visited the garden of no. 24 and was able to consider the points made in Mr Marsh's regulation 16 representation and a further written representation from him submitted, with permission, in advance of the public hearing and placed on the NDP website, in respect of issue d. which I accepted because of his inability to attend the public hearing.

138. TA Fisher Ltd's planning consultant pointed out at the public hearing that, whilst the ground level at the back of the house in question might be approximately 5 m lower than the ground level of The Site in this location, the likely distance from the back of the house to the nearest proposed dwelling would be some 50 metres (i.e. an allowance for an inset of some 20 m within The Site was anticipated). In summer there is a reasonable existing tree screen at the end of the garden.

139. There was discussion, too, at the hearing as to possible modifications to SDB4 in terms of consideration of the provision of boundary buffers on the western side of The Site if considered to be appropriate, in due course, through the Landscape and Visual Impact Assessment. (I return to this later.) It was not clear to me, that the curtilage/gardens of dwellings in fact would back on to Mr Marsh's garden. The illustrative sections provided by TA Fisher Ltd suggested that the school would be located in this part of The Site. The curtilage/gardens of dwellings would be more likely to back on to no.s 30 and 32 St John's Road but again the setback would again be likely to be substantial.

140. Whilst I fully understand and respect Mr Marsh's concern (and those of the occupiers of no.s 30 and 32), and clearly the outlook would change considerably, I am satisfied by the evidence before me that development could in principle take place without an unacceptable impact on living conditions.

e. the Parish Council's response to the points made in the regulation 16 representations (i.e. in addition to those listed above) and to any points raised

by West Berkshire Council in its comments (SM/05/03) on the pre-submission draft NDP which are still outstanding.

141. The representations raise a wide range of points.
142. Whilst, for reasons already given above, my recommendation is that the NDP be refused, it is appropriate, having read and heard evidence, that I should express my views (and what my recommendations would have been) in respect of other parts of the NDP.
143. I shall refer to them generally below when considering in turn each chapter of the draft NDP, but some require separate consideration first.

Kiln Lane site¹⁰⁰

144. Complaint is made in particular that this site was excluded as an option from the NDP Questionnaire.
145. Whilst the Questionnaire did provide an opportunity to put forward alternative sites, I have referred to my concerns regarding site selection above and consider that the landscape and visual impacts of sites should have been considered before the draft NDP proposals were formulated and put out to consultation.
146. As regards the Kiln Lane site, however, I am aware of course that this site was not supported by WBC at the preferred options stage of the HAS DPD. I am also aware that a planning application in respect of the residential development (50 dwellings) of the northern field (known locally as the Monkey Puzzle Field) has since recently been refused by WBC (by decision notice dated 11th May 2016) following consideration of a Landscape and Visual Impact Assessment. The report to committee refers to the “unacceptable harm to the rural landscape character of this part of Mortimer”. I have already noted that the Historic Landscape Characterisation Sensitivity Map categorises the site as of high sensitivity. So whilst I have concluded that landscape and visual impacts should have been considered before deciding on which site(s) to allocate, it cannot be assumed that the result of that exercise would lead to a different outcome vis-à-vis the Kiln Lane site.

Land adjacent to College Piece¹⁰¹

¹⁰⁰ Rep ID 8 – Mr David Smith.

¹⁰¹ Rep ID 9.

147. This land was put forward by the representor for inclusion in the draft NDP on the basis that it would be exclusively for social housing. The draft NDP¹⁰² recognises that a suitable rural exception site has not yet been identified.
148. The site, however, is the subject of a Woodland Tree Preservation Order (1996). Although I was provided with a Licence to Fell Growing Trees granted by the Forestry Commissioners on 19th March 2015, (a) it expired on 19th March 2016 without having been implemented; (b) it was subject to a condition for extensive restocking (replanting and ongoing maintenance of young trees); (c) I have been informed by the Council that “the Council did not object to the original felling licence as it was for sound forestry management. The felling licence comes with a restocking notice, so the woodland remains protected and continues to contribute to the local area. Only recently has there been mention of housing, if that was the reason for the felling licence, then the Council would have objected as would the Forestry Commission.”¹⁰³ I have also been provided with an email sent by the Council’s Senior Tree Officer to Ms Lancaster in July 2015: “We have agreed a woodland management plan for the site, with the Forestry Commission and the parish council, which includes the removal of the trees and restocking, and he [the owner] has a licence from the forestry commission to do this, so it will be cleared and replanted and still covered by the TPO, its a nice woodland and the local residents enjoy the trees and the public right of way which runs through the middle.”
149. I visited the land. I concur with the Senior Tree Officer’s comments. I would not have recommended that this land be allocated.

Land to the north-east of Spring Lane¹⁰⁴

150. The representor seeks the inclusion of this land within the settlement boundary.
151. SMPC accept that the site is not ruled out by flood risk/surface water flooding. SMPC maintain, however, that there is no need for the site to be developed to achieve the figure of 110 dwellings; and maintain that the existing boundary, which is proposed to be retained in this location in the draft NDP, meets emerging (and, I understand, uncontroversial) settlement boundary review criteria in the draft HSA DPD.

¹⁰² Page 25.

¹⁰³ Email Ms Lancaster dated 9th September 2016.

¹⁰⁴ Rep ID 18

152. Having visited the site, I agree with SMPC that the present boundary in this location meets those criteria for the reasons given by SMPC in Appendix 1 to the document enclosed with its letter dated 22nd January 2016 to West Waddy ADP; and that there is no present need to include this land within the MSB in this NDP.

The submitted NDP

- Chapter 1 Introduction

153. This brief introductory chapter helpfully summarises the sequence of subsequent chapters.
154. It confirms that the NDP covers the whole parish of Stratfield Mortimer and that the period covered by the Plan is from 2016 to 2026.
155. There are some drafting errors: the requirement of the legislation is that the NDP must have had regard to national policy (NPPF) and guidance (NPPG) and be appropriate; and be in general conformity with the strategic policies of the development plan. I am satisfied that the errors are of form only, not substance.
156. I would have recommended the following modifications to correct errors:

(i) Page 6 first paragraph

“This Neighbourhood Development Plan (NDP) covers the whole of the parish of Stratfield Mortimer and contains policies that are in general conformance with National (NPPF) policies and guidelines West Berkshire Council’s (WBC) Core Strategy. The period covered by the plan is from now until 2026.”

To read:

“This Neighbourhood Development Plan (NDP) covers the whole of the parish of Stratfield Mortimer and contains policies that are in general conformity with the strategic policies of the development plan, namely all the policies of West Berkshire Council’s (WBC) Core Strategy; have regard to National policy (NPPF) and guidance (NPPG) and are appropriate. The period covered by the plan is from now until 2026.”

(ii) Page 6 fourth paragraph

“It is emphasised that the NDP policies are in general conformity with the National Planning Policy Framework and Guidelines and the West Berkshire Core Strategy.”

To be deleted because of similar errors and, in the light of the preceding corrections, unnecessary repetition.

- **Chapter 2 Executive Summary**

157. This chapter provides a helpful summary of the content of the NDP. I have a number of detailed comments:

(i) The penultimate paragraph on page 8 states:

“All of these requirements have been developed for the allocated site in The Site Design Brief. Site Design Briefs and Development Applications, Proposals and Plans for any future development will conform to all the policies in the Plan in their totality.”

As regards the second sentence of the above quotation, in my view it is too onerous and therefore unreasonable to require that all development must conform with all policies in their totality. The position in law is that applications for planning permission must accord with the development plan unless material considerations indicate otherwise.¹⁰⁵ Accordance with the development plan means the development plan as a whole: “it is enough that the proposal accords with the development plan considered as a whole. It does not have to accord with each and every policy therein.”¹⁰⁶ Whilst the NDP is relatively limited in scope, making it perhaps easier to achieve compliance with all policy requirements, development may well not be able to comply with policies in their totality and yet still be acceptable.

I would have recommended that this read:

“All of these requirements have been developed for the allocated site in The Site Design Brief. Site Design Briefs and Development Applications, Proposals and Plans for any future development will accord with the policies of the Plan as a whole.”

(ii) Page 9 second paragraph

¹⁰⁵ S.38(6) of PCPA.

¹⁰⁶ R. v Rochdale MBC Ex p. Milne (No.2) (2001) 81 P.&C.R. 27, paragraph 50, per Sullivan J. (as he then was).

“The protection of existing green spaces by designating a number of spaces including the Fairground, the Alfred Palmer Memorial Field and the southernmost part of the allocated development site as local green spaces is also included.”

For reasons I set out below, I would have recommended (i.e. if I were recommending that the NDP as modified proceed to referendum) that the southernmost part of the allocated development site be not designated as a local green space at this time:

“The protection of existing green spaces by designating a number of spaces including the Fairground and the Alfred Palmer Memorial Field as local green spaces is also included.”

- **Chapter 3 Background to Mortimer**

158. This provides useful historical background concerning Mortimer, its evolution and the characteristics of its present population, drawn from the evidence base referred to. It also sets out a useful ‘SWOT’¹⁰⁷ analysis.

I would have recommended, to correct an error, that the plan on page 10 be reproduced at a larger and thus legible scale.

- **Chapter 4 Consultation Process**

159. This provides helpful summary factual information on the consultation process, both statutory and non-statutory, drawing on the evidence base referred to.

- **Chapter 5 Vision and Strategy**

160. This chapter explains that Mortimer has both a distinctive rural character stemming from its long history and its setting within woodland and agricultural land and a strong sense of community with a wide range of services and thriving small business economy. It is this vision of Mortimer, now and in the future, that forms the fundamental and distinctive focus for the Neighbourhood Development Plan and informs all the policies of this Plan.

¹⁰⁷ Strengths, Weaknesses, Opportunities, Threats.

161. This leads to the following, uncontroversial, statement of the Vision:

“The Plan will make it possible for people to live the whole of their lives in the parish if they so wish.

The rural character and setting of the parish will remain with the minimum of intrusion on the existing surrounding green and agricultural space.”

- **Chapter 6 Neighbourhood Development Plan Policies**

162. This short Chapter refers to circumstances in which the NDP will be reviewed in whole or in part.

“6.1 Future NDP Developments.

The policies in this Plan have been developed to deliver the Vision of Mortimer (see page 16). Inevitably they reflect the vision and development demands at a particular moment in time. Circumstances will change, new requirements will emerge. Some will be relatively small and will be adequately covered by the policies that have been developed. Others will involve material and significant changes to the policies and/or development demands, residential and commercial, in particular (but not only) those outside the settlement boundary. In the spirit of localism encouraging local people to produce their own distinctive neighbourhood plans on an on-going basis, which reflect the needs and priorities of the community, this Plan includes a policy, NDP1, to ensure such changes are based on a community consultation as has been this NDP. This might be undertaken either through a review or a partial review of the NDP followed by either an update of the plan or a new plan.

It is inappropriate to define a ‘significant’ change as this will depend on what is required, where, for what purpose and the immediate or future impact on the parish. The decision as to whether a change is ‘significant’ will be determined by Stratfield Mortimer Parish Council. Any change to a policy other than for the purpose of clarification or to make compliant with changes to NPPF or local authority policies, alteration to the settlement boundary or a development greater than 10 new homes, will be designated ‘significant’.

NDP1 - Any future policy development or significant development which affects the parish will be subject to an update of this NDP involving community consultation.”

163. It was confirmed at the hearing that the purpose of NDP1 is simply to ensure that any changes to the NDP will be the subject of community consultation. This is a legal requirement in any event so this policy is in my view unnecessary.

164. I would therefore have recommended the modification of the NDP by the deletion of the whole of paragraph 6.1 and NDP1.

165. It is convenient to refer at this point to Barton Willmore's representation¹⁰⁸ on behalf of Hallam Land Management Ltd. This seeks the inclusion in the draft NDP of a requirement for an early review of the NDP "to ensure that the parish is assisting in meeting the objectively assessed housing needs of the district."

166. I do not regard such a requirement as appropriate. Whilst the Berkshire SHMA (February 2016) is referred to, the figure of 665 dwellings per annum for the period 2013-2036 which is suggested to be the objectively assessed housing need for WBC as a whole (i) has not yet been the subject of consultation and examination through the local plan process, and (ii) will not necessarily be the same as the housing requirement¹⁰⁹ (recommended by, and adopted after, that examination) with which any future NDP will need to be in general conformity. It is not for this examination to presume what that housing requirement may be or where it may be met.

- **Chapter 7 Residential Site Allocation**

167. RS5 provides that The Site will provide 110 dwellings. RS1 defines a new MSB, enlarged to incorporate The Site. RS4 seeks to ensure that hard edges to built development are avoided. RS3 provides that there will be a presumption in favour of new residential development within the MSB and RS6 that windfall sites within the MSB will in principle be supported. RS2 provides that outside the MSB exceptional circumstances must be shown for housing development to be permitted.

168. As already referred to above, the draft NDP is in my view in general conformity with the Core Strategy as regards Stratfield Mortimer's proposed contribution to the housing requirement for the East Kennet Valley area.

¹⁰⁸ Rep ID 17. Letter dated 22nd April 2016 and accompanying report.

¹⁰⁹ See Gallagher Homes Ltd v. Solihull MBC [2014] EWHC 1283 (Admin) (Hickinbottom J.), paragraph 37.

169. If 110 dwellings can be achieved in the plan period Policy RS2 would not, in my view, be too restrictive, as was claimed.¹¹⁰ I note in passing that Policy RS2 accords with emerging HSA DPD Policy and I understand that that policy was not the subject of any controversy at the recent examination. I also find that, apart from my stated concerns regarding The Site, the policies otherwise also have regard to the NPPF, are appropriate and help the draft Plan to contribute to the achievement of sustainable development.

170. I considered the highway access to the site and in particular whether visibility for exiting cars would suffice. I was provided with the Transport Statement¹¹¹ submitted (and accepted by the highway authority) in respect of the development of the land to the north of The Site as well as an extract from the Manual for Streets.¹¹² I am satisfied that visibility would be, or could be (if necessary by the introduction, for example, of lower speed limits) made to be acceptable.

171. I also considered the concerns of Mr Whitaker, the owner of Fair View along the side of which dwelling the access to the permitted Tower House/Fairwinds development and to The Site would pass; and I was provided with a copy of the proposed landscaping plan (for the former development) which shows some proposed planting alongside part of the eastern boundary of Fair View. Whilst undoubtedly there would be a noticeable change for the occupiers of Fair View brought about by this access road, no significant, unacceptable noise or other amenity impacts were considered by WBC officers to be likely to occur, whether by reason of the Tower House/Fairwinds development or the additional development of The Site. I accept this professional opinion.

172. Modifications which I would have recommended:

- (i) RS3, RS4 and RS5 – full stops should be inserted at the end of each policy (typographical errors).
- (ii) RS5: unless it is clear that 110 dwellings can be secured on a site or combination of sites, I would have recommended that the words “up to” be included before “110 homes”.

¹¹⁰ Rep ID 17.

¹¹¹ Stuart Michael Associates, September 2015.

¹¹² 2007, pages 92-3.

- (iii) In addition, I would have recommended deletion of the reference to Manual For Streets and any more up to date guidance, since it is not known whether MfS would be replaced or amended by future guidance. Instead I would have recommended that the words of the first bullet point afterwards be amended to read:

“The layout of the development, including internal highways, be designed so as to provide safe and suitable access for all people.”

The Council as highway authority will no doubt give advice at the time of any planning application in the light of guidance then prevailing.

- (iv) RS6 “Residential developments on windfall sites within the MSB will be supported as long as they are well-designed and meet all the relevant requirements set out in the totality of this Plan.”

This appears to be too onerous a requirement. Development may be acceptable even though not all the requirements can be met in their totality.

I would therefore have recommended RS6 to read:

RS6 Residential developments on windfall sites within the MSB will be supported as long as they are well-designed and comply with the policies of this Plan.

- (v) Page 20

I would have recommended that Maps 1 and 2 should be more legible and should be replaced.

- (vi) Page 21

Paragraph 7.3 (this provides the context and justification for Policies RS1-RS6)

“The West Berkshire Housing Site Allocation DPD (paragraph 2.38) requires 110 houses to be located in Mortimer. The DPD goes on to state that these will be identified through the Neighbourhood Development Plan (NDP) for Stratfield Mortimer in conformity with the policies of the Core Strategy, and that the NDP will also include a review of the settlement boundary of Mortimer. These requirements are satisfied through the residential policies RS1 and RS5.”

I would have recommended that this be corrected as follows:

The submitted draft West Berkshire Housing Site Allocation DPD (paragraph 2.38) requires 110 houses to be located in Mortimer. The DPD goes on to state that these will be identified through the Neighbourhood Development Plan (NDP) for Stratfield Mortimer in general conformity with the policies of the Core Strategy, and that the NDP will also include a review of the settlement boundary of Mortimer. These requirements are satisfied through the residential policies RS1 and RS5.

(vii) Page 21 continues:

“Policy RS1 establishes the key spatial priority for Mortimer, within which context all its other policies are based and defines a Mortimer Settlement Boundary (MSB). Essentially it directs all development in the plan period to minimise the extension of the existing Settlement Boundary of the village of Mortimer that lies at the heart of the Parish and serves the wider rural area which will remain open countryside. It defines the MSB as the furthest extent of development planned for the period to 2026. The extension of the present (2015) Settlement Policy Boundary to form the MSB has been drawn tightly into the allocated development for the provision of 110 new homes.”

I would have recommended that the words “up to” be inserted before “110 new homes”.

(viii) The fourth paragraph on page 21 reads:

“To retain the village feel it is felt that any extension of the Settlement Boundary should be restricted so as to retain, as far as possible, the existing size of the village. Any development should also be as close to the village centre as possible so as to aid sustainability and to promote/retain the village lifestyle of being able to easily walk to essential services such as Doctors, shops and Post Office. These concepts were supported by a substantial majority of respondents.”

I would have recommended that this read:

“To retain the village feel it is felt that any extension of the Settlement Boundary should be restricted so as to retain, as far as possible, the existing size of the village. Any development should also be as close to the village centre as possible so as to sustain shops and services and to promote/retain the village lifestyle of being able to

easily walk to essential services such as Doctors, shops and Post Office. These concepts were supported by a substantial majority of respondents.”

The underlined words would correct an error, namely an unintended lack of clarity.

- **Chapter 8 Housing Mix and Density**

173. This chapter has the following stated objectives:

“To provide the mix of types of homes and tenure that make it possible for people to live the whole of their lives in the parish if they so wish with a focus on the provision of both starter homes and down-sizing homes as indicated in the consultation responses.

To have a pattern of housing on new residential sites that maintains the essential nature of the village and the immediate surrounding area.”

174. This chapter again has regard to government policy and guidance, is in general conformity with the strategic policies of the Development plan and helps the draft Plan to contribute to the achievement of sustainable development.

175. Discussion at the hearing centred on the justification for the percentage figures in Policy HD2 in relation to the percentage of bungalows sought.¹¹³ The stated justification on page 24 was, however, shown to be supported by the Housing Need Survey¹¹⁴ and the wording of HD2 also allows for a number of matters to be considered at the time of any planning application: identified local need, site specifics, funding/economics. It was agreed at the hearing that the character of the area of the particular site should also be considered. This would reflect the NPPF and be in general conformity with the Core Strategy.

176. I would have made the following recommendation:

- (i) HD2 “Stratfield Mortimer will seek a mix of home types of approximately 40% 1 or 2 bed dwellings split between apartments and houses, 20% 2 and 3 bedroom bungalows and the remainder being 3 and 4 bed houses. Identified local need and the site specifics, funding and the economics of provision will be taken into consideration.”

¹¹³ See, too, Rep ID 18.

¹¹⁴ SM42, e.g. pages, 1, 9 and 10-11.

I would have recommended that this read:

HD2 Stratfield Mortimer will seek a mix of home types of approximately 40% 1 or 2 bed dwellings split between apartments and houses, 20% 2 and 3 bedroom bungalows and the remainder being 3 and 4 bed houses. Identified local need and the site specifics and the character of the surrounding area, funding and the economics of provision will be taken into consideration.

177. Page 24, final paragraph. At the hearing I expressed considerable concern at the statement in SMPC's "Summary of evidence and justification" document¹¹⁵ that: "the perception is that those who rent sometimes do not have the pride that comes with ownership to maintain the property. To reflect this unease the policy that the majority of 'affordable' homes should be on the basis of equity ownership has been introduced (HD2)."

178. To put forward the policy in favour of equity ownership on this basis is, in my view, discriminatory and totally unacceptable. The policy, based on this reasoning, would discriminate against any person who could not afford to purchase a home and seriously affect their ability to live in Stratfield Mortimer.

179. The draft NDP states simply that "Local opinion favours equity-based tenures" but the basis for that is to be found in the aforementioned document. I would have recommended that the words "Local opinion favours equity-based tenures" be deleted because that opinion improperly discriminates against those who are unable to afford to buy a home.

180. The draft NDP continues: "... However the housing survey points to the fact that despite the high level of aspiration for ownership or shared ownership there is little evidence of sufficient savings or earnings to make that a possibility."

181. This statement is supported by the Report on Housing Need NDP. Strictly on that basis and on the basis that text referred to in paragraph 179 above is deleted, I would be satisfied that the draft NDP would not be discriminatory.

(ii) Page 25, 1st paragraph after the 8 bullet points.

¹¹⁵ SM34.

“The housing needs survey identified that here is a potential requirement for a rural exception site of up to 12 homes. This is an attractive idea but at the time of writing a suitable site as not been identified...”

To be corrected to:

“The housing needs survey identified that there is a potential requirement for a rural exception site of up to 12 homes. This is an attractive idea but at the time of writing a suitable site has not been identified...”

182. There was some discussion about the definition of starter homes at page 24 of the draft NDP, which definition applies also to SDB3. I am satisfied that the broader definition is justified in the circumstances of Mortimer, given the evidence of the need for small dwellings for those wishing to occupy a home for the first time.

- **Chapter 9 General Design**

183. This chapter sets out design policies, both general, relating to internal and external access and parking, flood management, street lighting, building design and style, landscape and environment. The stated objective is that:

“All new developments will have design solutions that reflect and enhance the rural character of Mortimer in their scale, siting, features, layout, materials, landscaping and design details as expressed by the community in this plan.”

184. At the public hearing there was discussion of Policies GD1 and GD3.

185. As regards GD1 one representor¹¹⁶ considered that the requirement to prepare site design briefs for any new development was too onerous.

186. GD1 in fact requires the preparation of a design brief only in respect of housing proposals which are outside the settlement boundary; and this, in my view, accords with the need to show exceptional circumstances for housing development outside the settlement boundary (RS2). For new development (of whatever form) within the settlement boundary there is encouragement to prepare a brief but not a requirement.

¹¹⁶ Rep ID 18.

187. As regards GD3 (flood management), clarification was sought in particular as to the requirements. SMPC accepted that this would be desirable and tabled possible clarificatory wording. This has also been considered and agreed by the Council's drainage engineers. I accept this too.

188. GD3 provides:

"GD3 In order to ensure that flooding risk is not increased, and ideally is reduced, taking into account climate change, all developments of any sort shall comply with the following parameters:

- In addition to having well designed, constructed and managed flood prevention measures to reduce the overall level of flood risk in accordance with West Berkshire Council's policy CS16, developers will be encouraged to adopt a worst case scenario to manage surface water run off :
 - rain falling on saturated ground or dry compacted ground
 - a peak intensity rainfall over a 30 minute period of 20mm within the standard 6 hour period
 - the higher of either the rainfall assumptions in the standard calculations or the maximum rainfall recorded in West Berkshire over the last 20 years with an allowance of +30% for climate change.
- All Planning Applications shall include agreements for the adoption of the anti-flooding systems establishing the permanent owner, and practical management and maintenance regimes to ensure that they continue to operate effectively and efficiently."

I would have recommended the following wording for the policy:

"GD3 In order to ensure that flooding risk is not increased, and ideally is reduced, taking into account climate change, all developments of any sort shall comply with the following parameters:

- In addition to having well designed, constructed and managed flood prevention measures to reduce the overall level of flood risk in accordance with West Berkshire Council's policy CS16, developers will be encouraged to adopt a worst case scenario to manage surface water run off :
 - rain falling on saturated ground or dry compacted ground (100% runoff

- a peak intensity rainfall over a 30 minute period of 20mm within the critical event duration* the higher of either the rainfall assumptions in the standard calculations or the maximum rainfall recorded at the closest approved weather station to Stratfield Mortimer over the last 20 years with an allowance of +30% for climate change.
- All Planning Applications shall include agreements for the adoption of the anti-flooding systems establishing the permanent owner, and practical management and maintenance regimes to ensure that they continue to operate effectively and efficiently.

(*as referred to in “Delivering Benefits through Evidence: Rainfall Runoff Management for Developments Report” - SC030219. Environment Agency – October 2013: ISBN 978-1-84911-309-0 (http://evidence.environment-agency.gov.uk/FCERM/Libraries/FCERM_Project_Documents/Rainfall_Runoff_Management_for_Developments_-_Revision_E.sflb.ashx)”)

189. I would also have recommended that Paragraph 9.3.3 be altered too, in line with the above amendments, to read:

“The calculations for determining flood risk require that climate change shall be taken into account. In addition to the high volume of rainfall over a long period, recent events demonstrate that storms causing severe flooding are in part because they fall on saturated ground and in the case of the Mortimer 2007 floods exacerbated by intense rainfall for a short period. To allow for these climate change induced storms in addition to the standard storm assumptions the developer shall consider the management of surface water flooding based on the higher of either (i) maximum recorded rainfall over a critical event duration* at the nearest recognised official weather station to Mortimer in the last 20 years +30% or (ii) the rainfall in the standard calculations +30%, falling on saturated or compacted ground and within the critical event duration a short intense period of rainfall of 20mm in 30 minutes.

(*as referred to in “Delivering Benefits through Evidence: Rainfall Runoff Management for Developments Report” - SC030219. Environment Agency – October 2013: ISBN 978-1-84911-309-0 (http://evidence.environment-agency.gov.uk/FCERM/Libraries/FCERM_Project_Documents/Rainfall_Runoff_Management_for_Developments_-_Revision_E.sflb.ashx)”)

190. On a minor point, in respect of Policy GD5 the background colouring should be uniform so as to make clear that the photographs on page 29 are part of the policy.

191. Policies GD1-6 are in general conformity with the strategic policies of the development plan, have regard to the NPPF and are in my view appropriate and would contribute to the achievement of sustainable development.

- **Chapter 10 The Site Design Brief for The Site**

192. I have already expressed my fundamental concern about the selection of The Site.

193. I nevertheless indicate what I would have recommended in respect of The Site Design Brief.

194. SDB1 - 1st bullet point

- “The Site must provide 110 dwellings”

195. I have already referred to this requirement and its wording at paragraphs 51, 99, 102 and 104-105 above. If I had not had fundamental concerns about selection I would have recommended that the bullet point reflect the outcome of the LVIA and archaeological assessments:

- “The Site must provide up to 110 dwellings, subject to the outcome of technical studies.”

196. SDB1 – 3rd bullet point

- “The site shall be allocated for a period of 5 years from the formal adoption date of this NDP. If, at the end of this period, outline planning permission has not been obtained for the development required by policy SDB1 a review of the allocation shall be carried out via a review or partial review of the NDP. In addition, if within 5 year period outline planning permission for the development has been obtained, but no progress has been made to secure the relocation of St John’s Infant School or the doctor’s surgery, a review of that part of the allocation shall be undertaken through a review or a partial review of the NDP”

I would have recommended that this be corrected to read:

- “The Site shall be allocated for a period of 5 years from the formal adoption date of this NDP. If, at the end of this period, outline planning permission has not been obtained for the development required by policy SDB1 a review of the allocation shall be carried out via a review or partial review of the NDP. In addition, if within the same 5 year period outline planning permission for the development has been obtained, but no progress has been made to secure the relocation of St John’s Infant School or the doctor’s surgery, a review of that part of the allocation shall be undertaken through a review or a partial review of the NDP.”

197. SDB3 1st bullet point reads:

- There will be a mix of house types, with an emphasis on smaller starter homes and units that are suitable for local residents who wish to downsize. An indicative mix of dwellings to make up a total of 110 on the site is 24 one or two bedroom apartments, 23 two bedroom starter homes, 25 three bedroom houses, 21 four bedroom houses, 3 five bedroom houses and 14 two or three room bungalows.

There was discussion at the public hearing as to whether the word “starter” should be removed; but I am satisfied that, as noted at paragraph 156 above, it is appropriate to emphasise the need for smaller units both for first-time buyers and for those wishing to downsize. I would not have recommended any change to this bullet point.

198. The 5th and 6th Bullet point of SDB4 state provide:

- The provision of a landscape buffer to the Eastern boundary of the site is to be provided to shield the existing dwellings from the development but still allow open vistas to the further views; this should exceed 20m in depth
- The landscaping to the Eastern boundary should be designed to shield the existing dwellings from the development but still allow open vistas to the further views.

199. At the public hearing it was agreed that the landscape treatment of the western boundary was also important, even allowing for existing off-site screening. It

was also agreed that development close to the eastern boundary would inevitably be precluded by reason of topography.

200. In consequence I would have recommended that these two bullet points be replaced with one bullet point:

“The landscaping to the Eastern and Western boundaries should be designed to shield the existing dwellings from the development but still allow open vistas to the further views.”

201. Subject to the foregoing, I would have concluded that the policies of Chapter 10 are in general conformity with the strategic policies of the development plan, have regard to the NPPF and are appropriate and would contribute to the achievement of sustainable development.

- **Chapter 11 Commercial**

202. This chapter sets out policies concerning commercial development. The stated objective is:

“To have a thriving parish economy and village centre of local retail outlets, small businesses, services (e.g. pubs, cafes) and social amenities providing local employment opportunities.”

203. Policy C3 provides that:

“All developments will adhere to all policies in total in the Plan and will not add to the urbanisation of Mortimer – perceived or real.”

204. It was agreed at the public hearing that Policy C3 should be deleted. I would have recommended so: the requirement to adhere to all policies is in my view too onerous. It is also unclear as to what urbanisation means in this context and how new build development could avoid it.

205. Full stops should be added at the end of the 4th bullet point of Policy C6 and at the end of each bullet point of Policy C7.

206. As regards the 4th bullet point, 2nd indented bullet point of Policy C7

- the character (visual, use, feel) and the distinctive views of the surrounding countryside in particular in areas identified in the West Berkshire Landscape Character assessment as having ‘High’ or ‘Medium-High’ sensitivity”

I would have recommended as appropriate, having regard to the NPPF, and to assist in the achievement of sustainable development, for the reasons set out in particular at paragraphs 58 and 68 above, that this read:

- the character (visual, use, feel) and the distinctive views of the surrounding countryside, having regard to the Landscape Character Assessments*, and in particular in areas identified in the Historic Landscape Characterisation Study as having ‘High’ or ‘Medium-High’ sensitivity.

(*the Newbury District-Wide Landscape Assessment (1993) and the Berkshire Landscape Character Assessment (2003)).

207. As regards Page 44 of the draft NDP and the paragraph beginning:

“The creation of new employment opportunities up to 10 people is considered most appropriate with an emphasis on high added-value sustainable employment. ...”

I would have recommended that this be corrected to read:

“The creation of new employment opportunities for up to 10 people is considered most appropriate with an emphasis on high added-value sustainable employment. ...”

208. As regards the paragraph immediately following the foregoing paragraph

“The conversion and reuse of farm buildings is widely supported and this Plan seeks to enable appropriate farm diversification. However, re-use of rural buildings for residential purposes would not normally be supported.”

I was invited by SMPC at the hearing to delete the last sentence given (i) the advice in NPPF paragraph 55 (3rd Bullet point) and (ii) that re-use of rural buildings for residential purposes can attract permitted development

rights.¹¹⁷ I agree and would therefore have recommended the deletion of the last (second) sentence of that paragraph.

209. As regards the penultimate paragraph on Page 45 of the draft NDP:

“The screening of new or redesigned businesses by vegetation will not normally be sufficient. Such enterprises must have well-designed premises that are suitably located and of appropriate scale, form and high quality design in particular in areas identified in the West Berkshire Landscape Character Assessment as having ‘high’ or ‘medium-high’ landscape sensitivity. The location, scale and nature of the business must pay due regard the visual amenity, road network, residential amenity and the rural nature of the parish. The assessment of impact shall take into account potential cumulative impact of possible further development on the urbanisation of the countryside and public amenity value.”

I would have recommended as appropriate, having regard to the NPPF, and to assist in the achievement of sustainable development, for the reasons set out in particular at paragraphs 58 and 68 above, that this read:

“The screening of new or redesigned businesses by vegetation will not normally be sufficient. Such enterprises must have well-designed premises that are suitably located and of appropriate scale, form and high quality design, having regard to the Landscape Character Assessments*, and in particular in areas identified in the Historic Landscape Characterisation Study as having ‘high’ or ‘medium-high’ landscape sensitivity. The location, scale and nature of the business must pay due regard to the visual amenity, road network, residential amenity and the rural nature of the parish. The assessment of impact shall take into account potential cumulative impact of possible further development on the urbanisation of the countryside and public amenity value.

(*the Newbury District-Wide Landscape Assessment (1993) and the Berkshire Landscape Character Assessment (2003)).”

210. Subject to the foregoing, I would have concluded that the policies of Chapter

¹¹⁷ Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 3, Class Q.

11 are in general conformity with the strategic policies of the development plan, have regard to the NPPF and are in my view appropriate and would contribute to the achievement of sustainable development.

- **Chapter 12 Infrastructure Development**

211. This objectives of this chapter are stated to be:

“To provide the infrastructure services and amenities required in a modern rural parish.

To ensure that any new development has good and sustainable water and waste water services.”

212. Policies IS1-IS6 concern, respectively, telecommunications (IS1¹¹⁸), CIL projects (IS2¹¹⁹), station car parking (IS3¹²⁰), a day nursery¹²¹, traffic¹²², waste and wastewater¹²³. These have regard to the NPPF¹²⁴ and government guidance and are appropriate, and would contribute to the achievement of sustainable development. No objection to any of these policies was maintained.

213. Policy IS2 refers to Community Infrastructure Levy (CIL) Projects.

I would have recommended that the Policy read, corrected for the purposes of clarity:

“The potential infrastructural enhancements, listed under projects at paragraph 12.4 below, will be pursued within the limits of budget and resources available with the priorities determined by Stratfield Mortimer Parish Council.”

¹¹⁸ See e.g. NPPF paragraph 42.

¹¹⁹ See e.g. NPPF paragraph 175.

¹²⁰ See e.g. NPPF paragraph 35.

¹²¹ See e.g. NPPF paragraphs 28 and 70.

¹²² See e.g. NPPF paragraphs 32, 35.

¹²³ See e.g. NPPF paragraphs 120, 156 and NPPG section 34.

¹²⁴ E.g. paragraph 42, 175, 35.

- **Chapter 13 Biodiversity and Environmental Gain**

214. This chapter states that its objective is:

“To maintain and where possible enhance the quality and diversity of the natural environment of the parish

To achieve this it will be necessary to ensure that new developments do not threaten biodiversity and positively encourage it. The opportunity provided by new developments will be used to enhance the wildlife habitats of Mortimer. At the same time existing areas and corridors in the parish could be enhanced to aid biodiversity.”

215. The foregoing is reflected in 3 policies B1-B3. There was no objection to these policies and, having regard to the NPPF, I find them to be appropriate and to contribute to the achievement of sustainable development and to be in general conformity with the Core Strategy.

- **Chapter 14 Green Spaces**

216. The stated objective of this chapter is:

“To maintain and, where possible, improve green spaces and green routes.

To achieve this it will be necessary to ensure that new developments incorporate green spaces and routes within them that link to the wider network of such features in the parish. At the same time existing green spaces and routes in the parish could be enhanced, in part to aid biodiversity.”

217. Policy GS1 seeks to designate the following as Local Green Spaces:

“- The Fairground, the Pound and Heath Elm Pond (pond outside the fence) and War Memorial island

- The Alfred Palmer Memorial Field

- Foudry Brook - the watercourse and footpath and 10m strip either side from St. Mary’s Church SW to the parish boundary

- Summerlug Common

- Windmill Common

- Brewery Common
- Bronze Age Barrows and surrounding land (Holden's Firs)
- The green space along the southern side of The Site"

218. WBC make the point¹²⁵ that many of the spaces proposed to be designated are already designated (either as Common Land or Scheduled Monuments) and therefore should not be designated as Local Green Space."

219. NPPF policy is that:

"77. The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used: ● where the green space is in reasonably close proximity to the community it serves; ● where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and ● where the green area concerned is local in character and is not an extensive tract of land."

220. NPPG advises that:

- "Local Green Space designation is a way to provide special protection against development for green areas of particular importance to local communities."¹²⁶
- where the land in question is already protected by a designation (scheduled monuments are referred to, but not expressly, common land), consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space.¹²⁷
- New residential areas may include green areas that were planned as part of the development. Such green areas could be designated as Local Green Space if they are demonstrably special and hold particular local significance.¹²⁸

¹²⁵ SM05/03.

¹²⁶ 37-005.

¹²⁷ 37-011.

¹²⁸ 37-012.

- The green area will need to meet the criteria set out in paragraph 77 of the National Planning Policy Framework. Whether to designate land is a matter for local discretion. For example, green areas could include land where sports pavilions, boating lakes or structures such as war memorials are located, allotments, or urban spaces that provide a tranquil oasis.

221. I shall consider the sites in turn:

The Fairground

I accept that this clearly meets the criteria of paragraph 77. It is appropriately designated as a local green space.

The Pound and Heath Elm Pond

222. I understand that these 2 areas adjoin and are separated from the Fairground to the north and west by a post and rail fence; and that they are designated common land.¹²⁹ I was informed that the reason for including them in the proposed allocation is that they link the War Memorial and the Fairground and are very much seen as a part of the overall fairground complex; and that they are also highly valued for their wild life including Great Crested Newts. There is no evidence, however, that any additional local benefit would be gained by designation of them as Local Green Space. I do not consider it therefore appropriate for them to be designated local green space.

The War Memorial Island

Although a relatively small triangular piece of land, in my view it would be appropriate to designate this land as a local green space. Plainly it is demonstrably special to the local community and holds a particular local and historic significance, being expressly “In memory of [56] Mortimer men who fell in the Great War, and also 21 men who died in the Second World War. Although surrounded by roads on all three sides, the roads are not so busy that some tranquillity may not be enjoyed. It is relatively isolated but

¹²⁹ I refer to an email from Mr Lyttle to me dated 21.10.16 and the decision (Ref. 2/U/78) made under the Common Registrations Act 1965 dated 4.5.73 concerning the ownership of the Pound and Heath Elm Pond

importantly it is in a prominent position and this adds, in my view, to its specialness.

The Alfred Palmer Memorial Field

There is no dispute that this land is worthy of local green space designation. I accept this.

Foudry Brook

WBC consider that the land in question is too far from the settlement. This, in my view, overlooks the fact that the early village was centred on the Foudry Brook¹³⁰, which is near to St Mary's Church and St Mary's school. It is within reasonable walking distance of present-day Mortimer. It matters not in my view that the land is private: there is a public right of way which passes along, and over, the Brook and through the land in question (the watercourse, and footpath and 10 m strip either side from St Mary's Church south-west to the parish boundary). It is not an extensive tract of land. It is unsurprisingly regarded as being of considerable recreational value. I accept this as a proposed local green space.

Summerlug Common

This is common land already. There is no evidence that any additional local benefit would be gained by designation of it as Local Green Space. I do not consider it appropriate therefore for it to be designated local green space.

Windmill Common

This is woodland and is not common land. The view was expressed¹³¹ that, as regards the criteria set out in paragraph 77 of the NPPF, it is close to the community it serves as it is for the most part inside the settlement boundary and abuts the built up area; is of special significance as it is an area of quiet recreation with many paths through mature woodland, that these paths are well used by walkers, dog walkers and horse riders; and that the area is not an extensive tract of land but is large enough to absorb the numbers of people who use it on a regular and semi-regular basis. On this basis, which I accept, I consider it appropriate for it to be designated as local green space.

¹³⁰ See draft NDP page 10.

¹³¹ Email Mr Lyttle to me dated 21.10.16.

Brewery Common

This is common land. There is no evidence that any additional local benefit would be gained by designation of it as Local Green Space. I do not consider it appropriate for it to be designated local green space.

Bronze Age barrows (Holden's Firs)

This land is designated a Scheduled Monument. There is no evidence that any additional local benefit would be gained by designation of it as Local Green Space. I do not consider it appropriate for it to be designated local green space.

Green space along the southern boundary of "The Site"

I am not satisfied that it is appropriate at this point in time to designate this land as local green space. It is too soon to know what local significance it may have. Moreover, the exact area may increase or otherwise alter depending on reconsideration of housing site selection. I agree with WBC that open space should be protected, subject to that reconsideration, by The Site policy.

- **Chapter 15 Heritage**

223. This chapter's objective is stated to be:

"To develop the heritage of the parish and provide an added amenity for the community.

To achieve this it will be necessary to negotiate with landowners to allow access and to provide information to the public."

224. No policies are included, instead reliance is placed on policy CS19 of the Core Strategy.

- **Chapter 16 Delivery and Monitoring**

225. This chapter does not include policies. It envisages that most of the policies in the draft NDP will be delivered as part of the planning process and recognises that

this process will determine, in large part, the success of the plan. The chapter goes on to list some of the key issues which will be considered. It notes that allocating land for development cannot make that development happen. It refers to the mechanism in Policy SDB1 to reflect the uncertainty of delivery.

- **Appendix A – Stratfield Mortimer Evidence Base**

226. The documents listed in Appendix A should be numbered. For example on page 13 there is reference to evidence base document 44 yet the list at Appendix A is not numbered. The list should also be re-checked to ensure that documents have not been omitted). For example the Historic Land Characterisation Study is not listed. In due course it will be relevant to list the 1993 and 2003 Landscape Character Assessments too. I understand that Appendix A does not include all the documents listed on the website

Miscellaneous

227. The plans/maps on pages 10, 15 (in part), 20¹³², 51, 56 and 57 (the local green spaces shown on the plan and listed in GS1 should also be numbered), are difficult to read. They should be printed at a larger scale and/or printed more clearly.

Conclusion

228. In accordance with paragraph 10 (2) (c) of Schedule 4B to the TCPA I recommend that the proposal for the NDP be refused.

Postscript

I gratefully acknowledge the courtesy, professionalism and efficiency of Ms Rachael Lancaster, then Senior Planning Officer (Policy) who acted as the coordinator between SMPC, WBC, the public and me from April – October 2016.

¹³² I bear in mind that Mr Hayter expressed his concern that the plans on page 20 incorrectly shows his driveway as a road; and that a plan at a base map scale of 1:25,000 rather than 1:10,000 would remove his concern (plan received 15.8.16). The change in scale does not of course obviate the need for the plan to be legible.

APPENDIX

Stratfield Mortimer Neighbourhood Plan Examination Document List

Submission Documents received

Ref	Document	Produced by
SM/01/01	Proposed Neighbourhood Plan	SMPC
SM/01/02	Consultation Statement	SMPC
SM/01/03	Basic Conditions Statement	SMPC
SM/02/01	SA/SEA Screening opinion & Decision letter	WBC
SM/02/02	The Council's submission checklist and assessment	WBC
SM/02/03	Map identifying the area to which the plan relates	WBC
SM/03/01	A copy of the regulation 16 consultation responses received	WBC

Additional Documents requested by Examiner 28.4.16 (received 1.6.16)

Ref	Document	Produced by
SM/04/00	Update on West Berkshire Council Housing Site Allocations DPD	WBC
SM/04/01 (a)	West Berkshire District Local Plan 1991 – 2006 (Saved Policies 2007)	WBC
SM/04/01 (b)	Secretary of State's Direction letter saving the policies	WBC
SM/04/01 (c)	West Berkshire District Local Plan 1991 – 2006 (Saved Policies 2007) Proposals Map	WBC
SM/04/02	West Berkshire Core Strategy (2012)	WBC
SM/04/03 (a)	West Berkshire Council Proposed Submission Housing Site Allocations DPD (Nov 2015)	WBC
SM/04/03 (b)	Proposed Minor Modifications to Proposed Submission Housing Site Allocations DPD (April 2016)	WBC
SM/05/01	Plan showing the location of Public rights of Way in Stratfield Mortimer	WBC
SM/05/02	Plan showing the location of 30 and 32 St John's Road	WBC

SM/05/03	West Berkshire Council comments on pre-submission Neighbourhood Plan (inc. comments made by Highways – individual comments from the Council’s Highways department can be provided if required)	WBC
SM/05/04	Details of Fairwinds and Land at Tower House planning application (15/02667/FULEXT). Update on progress and site location and site layout plans.	WBC
SM/05/05	Clearer copies of maps from pages 10, 20, 36, 37, 51, 56 & 57 of NDP	SMPC

Further documents requested June 2016 and received 13.6.16 and 24.6.16:

Ref	Document	Produced by
SM/06/01 (a), (b), (c)	Advice from Mrs Kirk (then Parish Clerk) – commentary and 2 advice notes	SMPC
SM/06/02	West Berkshire SFRA – extracts regarding Mortimer	WBC
SM/06/03	Historic Landscape Characterisation & Landscape Character Assessment – further information attached setting out what the Parish Council used	WBC
SM/06/04	Draft NDP at time of Regulation 14	WBC
SM/06/05	Berkshire SHMA, Executive summary (pages 17 – 28 of full document) and page 297	WBC
SM/06/06	Details regarding SM33 to SM36 and SM50	SMPC
SM/06/07	Details regarding St John’s School and Doctors Surgery	SMPC
SM/06/08 and/09	further details regarding SMPC site assessment work	SMPC
SM/06/10	The parish council code of conduct	SMPC
SM/06/11	Email from Mr Wingfield 15.10.14	SMPC

In addition:

Examiner’s Note re proposed public hearing issued 12th June 2016.

Mr Marsh letter received 4th August 2016.

Map proposed revisions (pp20,43) from SMPC concerning driveway off King Street received 15th August 2016.

Additional documents provided to Inspector as a result of the public hearing on 24th and 25th August 2016 received 26.8, 31.8 and 7.9.16:

Document	Submitted by
Eastern Area Planning committee report for Fairwinds and Land at Tower House (application number 15/02667/FULEXT)	WBC
Infrastructure Delivery Plan (IDP) extracts for Education and Doctors	WBC
Transport Statement and Landscape plan for planning application for Fairwinds and Land at Tower House (application number 15/02667/FULEXT)	WBC / Pro Vision on behalf of TA Fisher
Extract from Manual for Streets regarding sight lines	WBC
School Crossing Patrol survey for St John's School (Traffic survey data)	WBC (From Cllr G Bridgman)
Indicative plans for St John's Site ("The Site")	Pro Vision on behalf of TA Fisher
Updated flooding policy	Mortimer NDP
Note on Historic Landscape Character Assessments	WBC
Decision Notice and Delegated Report for Monkey Puzzle Field (application number 15/02784/OUTMAJ)	WBC
Felling Licence and TPO for Land at College Piece and letter 25.8.16 from Mr Todd	Mr Todd (Patrick Todd Chartered Surveyors)
Extracts from Newbury District Council District-Wide Landscape Assessment (1993) and Berkshire Landscape Character Assessment (2003)	WBC

In addition:

Email from SMPC dated 2.9.16 concerning consultation with North and West Reading Clinical Commissioning Group and the Newbury and District Clinical Commissioning Group received 7.9.16.

Email dated 7.9.16 from Ms Lancaster to Examiner enclosing emails from Mr Cullen, Senior Tree Officer, dated 1.7.15 and 5.9.16.

Email from Ms Miles to Ms Lancaster dated 8.9.16 and preliminary landscape analysis and photographs, received 9.9.16 and 26.9.16.

Email dated 20.9.16 Mr Lyttle to Examiner concerning preliminary landscape analysis and viability.

Email from Ms Lancaster dated 22.9.16 with Drainage engineer's response re flood policy wording.

Letter dated 28.9.16 Ms Miles (Pro Vision) to Ms Lancaster concerning viability.

Email dated 20.10.16 Mr Lyttle to Examiner responding to queries re historic landscape characterisation study.

Email dated 21.10.16 Mr Lyttle to Examiner responding to queries concerning local green spaces.

Decision Letter (reference 2/U/78) dated 4.5.1973 under the Commons Registration Act 1965 concerning the ownership of the Pound and Heath Elm Pond.

Evidence Base Documents provided

Ref	Document	Produced by
SM4	Application to designate a Neighbourhood Area – Stratfield Mortimer & Approval Letter from WBC	SMPC
SM8	Proposed Neighbourhood Plan Area West Berkshire Council	WBC
SM9	Advertisement of intent to designate	SMPC
SM10	Call for volunteers October 2013	SMPC
SM11	Steering Group Terms of Reference	SMPC
SM12	Background Statistics of Stratfield Mortimer, March 2011	SMPC
SM13	Census 2011 – Mortimer Key Data Statistics	Census
SM14	Mortimer House type map	SMPC
SM15	Mortimer Parish Map	SMPC
SM16	Mortimer Ward Profile	SMPC
SM17	Parish Boundaries map	SMPC
SM18	Stratfield Mortimer Area Map	SMPC
SM19	Stratfield Mortimer Parish Aerial Map	SMPC
SM20	Stratfield Mortimer Village Aerial Map	SMPC
SM22	Dataset for Mortimer Profile doc	SMPC
SM23	National Planning Policy Framework	DCLG
SM24 (see	West Berkshire Core Strategy (2006-2026) Development Plan	WBC

SM/04/02)	Document Adopted July 2012	
SM25	West Berkshire Council Strategic Housing Land Allocation Assessment Dec 2013 (Mortimer Extract)	WBC
SM26 (see SM25)	West Berkshire Council Strategic Housing Land Allocation Assessment Maps (Mortimer Extract)	WBC
SM27 (see SM/04/02)	Spatial Strategy The East Kennet Valley - The Vision <i>(included in Core Strategy)</i>	WBC
SM28	Housing Site Allocations DPD Preferred Options East Kennet Valley Spatial Area (Mortimer) Aug 2014 (Mortimer extract)	WBC
SM29 (see SM/03/04)	Housing Site Allocations DPD Spatial Area - East Kennet Valley November 2015 <i>(included in Proposed Submission HSA DPD)</i>	WBC
SM30	Neighbourhood Planning General Regulations 2012	Government
SM31	West Berkshire Council Statement of Consultation App A – SHLAA consultation with Parish Council (Mortimer Extract)	WBC
SM32 - 40	Summary Justification and Evidence SM33 Consultation statement – correct version received 30.6.16	SMPC
SM41	Site Design review	SMPC
SM42	Housing Needs Survey Report	CCB for SMPC
SM43	Designation of Local Green Space	SMPC
SM44	Explanation of SWOT Points	SMPC
SM45	NDP Steering Group Minutes	SMPC
SM46	Stratfield Mortimer Parish Council Minutes (extracts)	SMPC
SM47	Stratfield Mortimer Parish Council Response to Housing Site Allocations Preferred Options consultation	SMPC
SM48-49	Pre-Submission Consultation Statement	SMPC

SM51 – 52 (see SM/02/01)	SEA & HRA Screening and letter confirming decision	WBC
SM53 (see SM/04/02)	Delivering New Homes and Retaining the Housing Stock CS1 <i>(included in Core Strategy)</i>	WBC
SM54	Delivering Investment from Sustainable Development SPD. Extract on Affordable Housing	WBC
SM55 (see SM/04/02)	Affordable Housing CS6 <i>(included in Core Strategy)</i>	WBC
SM56 (see SM/04/02)	Housing type an Mix CS4 <i>(included in Core Strategy)</i>	WBC
SM57	The West Berkshire CIL Viability Study (Jan 2013)	WBC
SM58	West Berkshire Community Infrastructure Levy (CIL) Charging Schedule (April 2015)	WBC
SM59	West Berkshire Housing site Allocations DPD Housing in the Countryside Policies: Preferred Options Consultation (Sept 2014)	WBC
SM60	West Berkshire Housing site Allocations DPD SA/SEA Site Assessment forms for Mortimer (Preferred Options)	WBC
SM61 (see SM28)	Housing Site Allocations DPD Preferred Options (Mortimer Extract)	WBC
SM62	Evidence for Reserving Land for New St Johns School	SMPC
SM63 (see SM/04/02)	Design Principles CS14 <i>(included in Core Strategy)</i>	WBC
SM64	Building for Life 12 (3 rd Edition)	Design Council
SM66 - 70	Quality Design SPD (parts 1 – 5)	WBC
SM72	Stratfield Mortimer Village Design Statement 2007	SMPC
SM73	Planning and Development Briefs: A guide to better practice	DCLG

	(2007)	
SM74	Planning Practice Guidance – Design	DCLG
SM75 (see SM/04/02)	Flooding Policy CS16 <i>(included in Core Strategy)</i>	WBC
SM76	Environment Agency Surface Water Flood Map of Parish	EA
SM77	Environment Agency Surface Water Interactive Flood Map	EA
SM78 - 80	Flood Report for Stratfield Mortimer 2007	WBC
SM81	Thames Water Statement	TW
SM82	Site Access Map	SMPC
SM83 (see SM62)	Notes of meeting with WBC re. Education	SMPC
SM84 (see SM/04/02)	Rural Economy CS10 <i>(included in Core Strategy)</i>	WBC
SM86	Biodiversity Area 13 Berkshire (Berkshire LNP)	BLNP
SM87	Planning Practice Guidance - Local Green Space Designation	DCLG
SM88	Designating Local Green Space in Mortimer	SMPC

Regulation 16 – List of those making Representations (alphabetical order)

	Rep ID
Mr and Mrs Alcock	2
Berks, Bucks and Oxon Wildlife Trust	6
Mrs J Bowyer	3
Canal and River Trust	1
Englefield Estates	18
Hallam Land Management	17
Health and Safety Executive	4
Historic England	7
Mr P Marsh	16
National Grid	5
Mr D Smith	8
TA Fisher and Sons	15
Thames Water	14
Mr P Todd	9
WBC Education (Property)	10
WBC Transport Services	11
Wiltshire Council	12
Wokingham Council	13

Stratfield Mortimer Neighbourhood Plan Examination Public Hearing

24th and 25th August 2016

Attendees 24th August

Name	Organisation
Danusia Morsley	Mortimer NDP
Pat Wingfield	Mortimer NDP
Tennant Barber	Mortimer NDP
Rachael Lancaster	WBC
Bryan Lyttle	WBC
Arlene Kersley	Community Council for Berkshire (CCB)
Graham Bridgman	WBC member for Mortimer
John Bagshaw	
Geoff Mayes	Beech Hill Parish Council
Martin Small	Historic England
Edward Crookes	Englefield Estate
Patrick Todd	Mowbray Will Trust
Julian Pacey	TA Fisher
Katherine Miles	Pro Vision (on behalf of TA Fisher)
Martin Goodman	
Tom Rice	Barton Willmore (on behalf of Hallam Land Management)
Emma Betteridge	Basingstoke and Deane BC
Robyn Kelly	Basingstoke and Deane BC
Royce Longton	
Steve Pickles	West Waddy ADP (on behalf of Englefield Estate)
Andrew Clark	
Stuart Whitaker	
Hugh Peacocke	Newbury Town Council
Laila Bassett	WBC
Caroline Peddie	WBC
Paula Amorelli	WBC
Neil Kiley	Stratfield Mortimer Parish Council

Attendees 25th August

Name	Organisation
Danusia Morsley	Mortimer NDP

Pat Wingfield	Mortimer NDP
Tenant Barber	Mortimer NDP
Rachael Lancaster	WBC
Caroline Peddie	WBC
Steve Pickles	West Waddy ADP (on behalf of Englefield Estate)
Graham Bridgman	WBC member for Mortimer
Geoff Mayes	Beech Hill Parish Council
Martin Goodwin	

Attendees on Site Visit (25th August)

Name	Organisation
Pat Wingfield	Mortimer NDP
Tenant Barber	Mortimer NDP
Rachael Lancaster	WBC
Graham Bridgman	WBC member for Mortimer
Steven Smallman	Pro Vision (on behalf of TA Fisher)
Steve Pickles	West Waddy ADP (on behalf of Englefield Estate)
Martin Goodwin	
Neil Kiley	Stratfield Mortimer Parish Council