

Stogumber Neighbourhood Plan

Submission Version

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Report to the West Somerset District Council
on the Independent Examination of the draft
Stogumber Neighbourhood Plan

April 2017

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Summary of main findings

0.1 It is a requirement of the Localism Act that this report should contain a summary of its main findings. The reasons for each of the recommendations are given in the following sections of the report.

0.2 The principal findings in this report are that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in the Town and Country Planning 1990 Act (as amended), does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights.

0.3 The plan is recommended to be modified to delete references to quarrying and to include a vision statement. My main recommendations for modifications to the individual policies are: -

- Policy O1 should become an over-arching policy listing criteria which are common to a significant number of policies, cross-referenced in those policies to avoid repetition.
- References to the hamlets as preferred locations for development in Policy EN2 should be deleted and the policy should be significantly re-structured to provide clarity in implementation.
- Policy C3 should be re-written. Reference to a specific number of dwellings to be delivered during the plan period should be omitted; the site size threshold for the provision of affordable housing amended to 6 dwellings with a 35% contribution; occupancy criteria for both affordable housing and open-market (principal residence) dwellings should be removed; although an overall average net floor area for dwellings of 100m² may remain, it must be subject to an assessment of the effect on site viability; the 50m² minimum should be removed and the removal of permitted development rights for the extension of new dwellings should be linked to a requirement for a balanced assessment of the benefit of any proposed extension against any effect on the provision of housing to meet local needs.
- Policies EN1,4 and 8; C1,4,12 and 13 should be deleted and Policy C10 significantly re-written.
- Other policies should be re-drafted and in some cases combined, for example Policies C6-C8, to provide clarity in interpretation for the purposes of decision-making by the local planning authority.

Section 1 - Introduction

Appointment

1.01 I have been appointed by the West Somerset District Council (WSDC), acting as the Local Planning Authority (LPA), under the provisions of the Town and Country Planning Act 1990, as amended by the Localism Act 2011, to carry out an independent examination of the Stogumber Neighbourhood Plan as submitted to the LPA in November 2016. The WSDC carried out publicity for the proposed plan for 8 weeks between 18 November 2016 and 13 January 2017 giving details of how representations might be made, in accordance with Regulation 16 of the Neighbourhood Plans (General) Regulations 2012 ('the 2012 Regulations'). I was sent the documentation required under Regulation 17 in January 2017 following the close of the consultation period, including copies of all of the representations received under Regulation 16. I have taken that documentation and all of the representations into account in carrying out the examination.

1.02 I am a Chartered Town Planner (Member of the Royal Town Planning Institute) with over 40 years post-qualification professional experience in local and central government. I am independent of the Stogumber Parish Council and of the Local Planning Authority. I have no land interests in any part of the plan area.

My role as an examiner

1.03 The terms of reference for the independent examination of a Neighbourhood Development Plan are statutory. They are set out in the Localism Act 2011 and in the 2012 Regulations. As an examiner I must consider whether the plan meets what are called 'the basic conditions'¹. In summary, these require me to consider: -

- whether, having regard to national policies and to advice contained in guidance issued by the Secretary of State, it would be appropriate to make the plan;
- whether the making of the plan would contribute to the achievement of sustainable development;

¹ These are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as introduced in Schedule 10 of the Localism Act 2011)

- whether the making of the plan would be in general conformity with the strategic policies contained in the development plan for the area; and to ensure that:-
- the making of the plan would not breach, and would otherwise be compatible with EU obligations relating to Strategic Environmental Assessment and Habitats Regulations Assessment and that the plan would be compatible with Convention rights, within the meaning of the Human Rights Act 1998; and
- that 'prescribed conditions' would be met and 'prescribed matters' would be complied with in plan preparation and submission.

1.04 Legislation requires that my report on the draft plan should contain one of the following recommendations:-

- a) that the draft plan is submitted to a referendum, or
- b) that modifications are made to the draft plan and the modified plan is submitted to a referendum, or
- c) that the proposal for the plan is refused.

I may make recommendations for modifications which I consider need to be made to secure that the plan meets the basic conditions or for compatibility with EU obligations and (Human Rights) Convention Rights. The only other modifications which I may recommend are those to correct errors.

Section 2 - Statutory and procedural matters including EU obligations and human rights

2.01 The West Somerset District Council formally designated the parish of Stogumber, excluding that part which lies within the Exmoor National Park, as a Neighbourhood Area on 3 June 2014. The plan relates solely to the designated area and has been submitted by the Stogumber Parish Council (SPC) as the 'qualifying body'.

2.02 The title of the plan is given (in green) on the front sheet simply as 'Stogumber Neighbourhood Plan' although there is an italicised sub-heading '*Draft amended following 1st formal consultation November 2015 – January 2016*'. That may be factually correct but that stage was overtaken by events when the plan was submitted to the WSDC for further consultation. Not only

that but it will be incorrect and out-of-date as a reference to the final version of the plan. It is, therefore, in the nature of an error requiring correction.

2.03 In addition, it is a statutory requirement that the plan 'must specify the period for which it is to have effect'.² That has generally been taken to mean that a start and finish date should be stated whereas this plan only includes non-specific references to covering a 10 year period. It is becoming general practice to satisfy the statutory requirement by including the plan period in the plan title and, as the sub-title will require amendment, that would seem the best way forward for this plan.

2.04 I have been given various alternatives as to what the start and finish dates for the plan might be but I have decided that I need not be concerned with such detail, as the plan does not seek to qualify or limit the implementation of any individual policy within a specific timescale. Given the uncertainty as to when the plan might be finalised, I consider that a degree of flexibility is required. I need only make a generally worded recommendation on the matter in order to ensure that the final plan meets the statutory requirement. The exact start and finish dates can then be agreed between the Parish and District Councils as they see fit.

Recommendation 1

On the front page of the plan delete the italicised subtitle and substitute dates to specify the 10 year period during which the plan is intended to have effect.

2.05 Section 38B(1)(b) of the Town and Country Planning Act 1990 (as amended) ('the Act') states that the plan 'may not include provision about development that is excluded development'. The term 'excluded development' includes any development which would be a 'county matter' should a planning application be made for that type of development.

2.06 In the third paragraph of Policy EN2 is a provision which relates to land 'which has been previously developed for minerals extraction'. Such land is given locational preference for new (built) development. In so far as the policy relates to the re-development of land for an alternative use such as housing or employment that would not be a county matter. That applies even when the Somerset County Council, as Minerals Planning Authority, is consulted as to

² S38B(1)(a) of the Town and Country Planning Act 1990 (as amended by Schedule 9 to the Localism Act 2011)

whether there remains a viable mineral resource. However, the policy also applies criteria to proposals for future mineral extraction. Although the wording has been agreed with the County Council such provisions must be deleted for the plan to comply with the statutory limitation on content. (See *Recommendation 6 for a complete re-wording of Policy EN2*)

2.07 There is then a statement on page 31 of the plan under the heading 'Quarrying' which correctly indicates the role of the Somerset Minerals Plan. In so far as the text is a factual statement it is not a 'provision' as referenced in the Act, but the sentence starting with the words 'The Parish supports ...' gives a clear steer towards the re-opening of small quarries and the development of new ones. I cannot regard that as anything other than a 'provision' even though not included within an emboldened policy. A legal opinion obtained by the WSDC confirms this. The sentence must be deleted for the same reason as the reference in policy EN2. I understand the Parish Council's wish to recognise the continuing importance of small-scale quarrying but I am not empowered to recommend additional wording which is not necessary for the plan to meet the statutory provisions or the basic conditions.

2.08 The penultimate paragraph on page 8 of the plan, by way of an introduction to Policy EN2, includes a cross-reference to the mention of quarrying on page 31 and commences with the words 'This Plan supports Quarrying' which, again, is in the nature of a policy statement. Furthermore, the statement about protecting disused quarries from (alternative?) development when it would be viable to re-open them not only reads as policy but also is confusing because it appears to be a reference to a policy in the Somerset Minerals Plan. The paragraph adds nothing to the plan and in view of the statutory limitation should be deleted altogether.

Recommendation 2

- a. Delete the penultimate paragraph in the text on page 8 under the heading 'Location of Development'.**
- b. On page 31, under the heading 'Quarrying', delete the whole sentence which starts with the words 'The Parish supports ...' and ends with the words '...the local road network'.**

2.09 The legislation states that the 'general rule' is that the examination of the issues by the examiner should take the form of the consideration of written representations. However, an examiner must hold a hearing 'for the purpose of receiving oral representations about an issue' where he or she considers a hearing 'is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case'³. My initial appraisal of the plan and the representations suggested that a hearing might be required to discuss representations by the WSDC on the approach to development in the hamlets and the justification for the 'principal residence' clause in policy C3. However, before finally deciding on the matter I issued⁴ a list of written questions seeking clarification and further evidence in justification of the plan policies. My consideration of the Parish Council's written responses⁵ to my questions along with a few supplementary queries⁶ allows me to conclude that the information provided is adequate for the examination to proceed without recourse to a hearing.

2.10 I visited Stogumber on the afternoon of Wednesday 22nd April 2017 when I drove around the parish and walked to important vantage points in and around the village so that I might fully appreciate the character of the area and its setting within the landscape of the vale between Exmoor National Park which abuts to the west and the Quantock Hills rising to the east.

2.11 The SPC have submitted a Basic Conditions Statement in accordance with the Regulations⁷. It provides an analysis of the plan against the basic conditions including, as an appendix in tabular form, an indication of the degree of conformity between each neighbourhood plan policy and the equivalent in the West Somerset Local Plan adopted in November 2016, relatively late in the neighbourhood plan preparation period.

2.12 A plan showing the area to which the Neighbourhood Plan relates has been submitted as required by Regulation 15(1)(a).

³ Paragraph 9 of Schedule 4B to the 1990 Act (as in reference 1 above)

⁴ On 27 February 2017

⁵ Received on 31 March 2017

⁶ Issued on 5 April, response received 21 April 2017

⁷ Regulation 15(1)(d)

The Human Rights Act and EU Obligations

2.13 The Basic Conditions Statement includes a very brief statement, in paragraph 7.2, that the plan contains no proposals that impacts on the rights and freedoms guaranteed under the European Convention of Human Rights and the Human Rights Act 1998. No representations have been made concerning this aspect and from my own assessment I have no reason to conclude other than that the approach taken in the plan is fully compatible with, and does not breach, Convention Rights.

2.14 A Strategic Environmental Assessment (SEA) screening opinion was issued in October 2016 that the plan would have no likely significant environmental effects⁸ with a recommendation that the plan be 'screened out' of the SEA process. A formal determination⁹ to that effect was made subsequently. I support that determination on the basis that no land use allocations are made in the plan and the anticipated scale of development is very limited. A formal statement¹⁰ has also been included that there are no international or nationally designated sites of nature conservation interest within the plan area and that, therefore, appropriate assessment under the Habitats Regulations would not be required. These conclusions have been supported in consultation with Natural England, the Environment Agency and Historic England.

2.15 On this basis, I am satisfied that the submitted plan is compatible with EU environmental obligations and meets the basic condition prescribed by section 1 of Schedule 2 to the Habitats Regulations.

⁸ Report by Lotus Consulting gives reasons as required by Regulation 9(3) of the Environmental Assessment of Plans and Programmes Regulations 2004 ('the SEA Regulations')

⁹ As required by Regulation 9(1) of the SEA Regulations

¹⁰ Issued by the WSDC on 24 January 2017 under Regulation 102 of the Conservation of Habitats and Species Regulations 2010 ('the Habitats Regulations')

Section 3 - Preparation of the plan and the pre-submission consultation processes

3.01 As required by legislation¹¹, the SPC have submitted a Consultation Statement. It actually goes a good deal further than required in setting out some of the early stages which led up to the decision in early 2014 to seek designation of the Neighbourhood Plan area. For example, it includes some interesting information about the decision by the Parish Council to buy what is now known as Beacon Field. Nevertheless, the statement also clearly sets out the processes of community engagement which have been followed from 2014 through to the final stages of plan preparation in 2016. Most importantly, it includes details of the formal consultation bodies and the results of the Regulation 14 consultation with a copy of the consultative draft plan indicating the amendments which were made as a result of the consultation and the responses to all representations made.

3.02 I am satisfied that every effort has been taken to publicise the plan and to involve the community in its preparation. Although some representations by members of the public raise detailed issues of concern there is a noticeable degree of support. The Parish Council is to be congratulated on the effectiveness of the public engagement process.

Section 4 - The Plan, meeting the basic conditions

4.01 This section of my report sets out my conclusions on the extent to which the submitted plan meets those basic conditions which are set out in the first three bullet points in paragraph 1.3 above. I will first of all discuss what I regard to be the main issues which arise from the representations made on the plan. If I conclude that the plan does not meet one or more of the basic conditions, I recommend a modification to the plan in order to ensure that it does meet those conditions. The main issues are: -

a. whether the implementation of plan policy would be assisted by the inclusion of a clear vision for the future and whether the policies should be expressed in terms of the criteria which would need to apply before planning permission might be granted or refused avoiding undue overlap and repetition between those policy criteria;

¹¹ The Neighbourhood Planning (General) Regulations 2012, Regulations 15(1)(b) and 15(2)

- b. whether the preferred locations for new development as expressed in Policy EN2, particularly the inclusion of the hamlets of Capton, Lower Vellow and Kingswood, might be regarded as being in general conformity with the strategic policies of the development plan; otherwise have had regard to national policy and guidance, also contributing to sustainable development;
- c. whether the stated plan provision of 19 new dwellings (5 in the hamlets) over the 10 year plan period is of such a scale or nature as to take the plan out of general conformity with the strategic policies of the WSLP; whether such a figure has been adequately justified and whether the inclusion of a specific figure serves any useful purpose in policy terms;
- d. whether there is a proportionate and robust evidential justification for setting a site size threshold of three dwellings for the provision of affordable housing; whether this should be on or off-site and the appropriateness of including local occupancy criteria for affordable housing within a planning policy (Policy C3);
- e. whether, in the circumstances which apply in Stogumber parish, there is justification for the imposition of a condition on any permission for a new open-market dwelling specifying that the dwelling should be occupied only as a 'principal residence' and, whether such a condition would satisfy the tests set out in paragraph 206 of the NPPF and in Planning Practice Guidance.

4.02 Following an analysis of the main issues I examine the plan policies in more general terms working through them in plan order to identify any inconsistency with the requirements set by legislation making recommendations for modifications to those policies as and when necessary. These include the modifications arising from the main issues. It should be noted that I do not make recommendations for changes to the supporting text which will be required consequentially upon the modification of the policies themselves. This is to provide flexibility for the WSDC to agree such textual amendments with the SPC as part of their consideration of the modifications during the post-examination stages leading towards production of the final plan. Lastly, I list any errors which will require correction in the final version of the plan.

Main issues

Main Issue a. The need for clarity in policy implementation

4.03 For the effective implementation of a plan there should be no ambiguity in what the policies in the plan are intended to achieve and how they can be implemented in practice. There are some pointers to this in both the NPPF and the PPG. Those represent the national policy and guidance to which plan-makers must show they have 'had regard' in order to meet the relevant basic condition. As stated in both the NPPF¹² and the PPG¹³ the policies in a neighbourhood plan are for the purpose of taking decisions on planning applications. A policy should be 'clear and unambiguous' and 'should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.'¹⁴

4.04 A number of the policies in the SNP are expressed in terms that development will be 'supported' provided that listed criteria are met. However, it is not clear what such 'support' would mean in reality. If the writer had in mind that the Parish Council might express support for a proposal when consulted on an application by the local planning authority that might be so but, it has not had adequate regard to the practice guidance on the purpose of neighbourhood plan policies.

4.05 The WSDC, as the body primarily responsible for implementation of the plan, have not raised this particular point. Moreover, it would not be unreasonable for a decision-taker to interpret a policy of 'support' as an indication that planning permission should be granted in the circumstances identified by the policy. The SPC have confirmed that is what they expect. I do not, therefore, recommend the modification of policy wording for that reason alone, only in instances where a wider-ranging re-wording is required to meet the basic conditions. However, there cannot be degrees of support, as in Policy

¹² Paragraph 183

¹³ Ref. ID 41-002-20140306

¹⁴ PPG, ref. ID 41-084-20160519

C1, and a policy which states that development will not be supported (EN6) or only supported in certain circumstances (C8) does not give adequate guidance or confidence to the decision maker (see paragraph 4.2 above). These factors are considered later in this report when dealing with the application of individual policies.

4.06 The first of the 12 core planning principles under paragraph 17 of the NPPF is that local and neighbourhood plans should set out a positive vision for the future of the area. The SNP does not include a vision but in the text on page 6 there are what are called six 'guiding objectives' as an introduction to Policy O1 which is stated to be an overarching policy which aims to express the guiding objectives in planning terms. Linked to this the WSDC have made representation concerning an undue repetition of very similar policy criteria particularly with regard to protecting the character and landscaping of Stogumber, to effects of development on the local road network and, to the avoidance of significant harm to residential amenity. It is also not clear how individual planning applications would be judged against Policy O1.

4.07 I take the point made by the SPC in response to my question on this: whereas the professional plan-user may understand the principle that the plan should be read as a whole, meaning that there is no need to include repeat criteria in each policy, that is less obvious or understood by the members of the local community from whom support is sought for the plan. I agree that there is a room for flexibility in this respect in a neighbourhood plan. Nevertheless, clarity of meaning is a requirement of national guidance. In order to meet the basic condition in this respect the replacement of the 'guiding objectives' by a statement of vision and the inclusion of a new over-arching Policy O1 instead of the repetitive criteria in individual policies would represent a positive way forward. Although not strictly necessary, the inclusion of cross-references to Policy O1 in the individual policies would assist the lay plan-user. I accept the wording of the vision as put to me by the SPC although it needs to be expressed as a vision of the how Stogumber will be at the end of the plan period through the implementation of the plan; that is looking back from 10 years hence.

Recommendation 3

Delete the green heading 'Objectives' and the text which follows on page 6 in the plan. Replace that section by the following text:-

Vision

The vision for Stogumber is that economic and social infrastructure will have been strengthened, through appropriate forms and levels of development, so that:

- **Stogumber continues to be a vibrant, inclusive and caring community;**
- **more young people have been able to stay in Stogumber when they start a family and more young families have been enabled to move into the village;**
- **facilities and services for older members of the community have been maintained and improved, so that they have continued to live in Stogumber as their need for support has increased;**
- **more employment opportunities have been provided for residents, and economic activity in the village has increased which has maintained and increased the viability of existing businesses, facilities and services;**
- **the architectural and landscape character of the village, hamlets and countryside has been maintained and enhanced.**

4.08 I have been provided with a suggested wording for a replacement Policy O1 along with revised introductory text. There is a slight difficulty in that the replacement policy, as does the submitted version, would apply to all forms of development, including minor or householder development as well as non-residential development. It is reasonable for development management purposes to consider the direct impact of a development of whatever scale on residential amenity, landscape or built character and road safety, three out of the four criteria in the policy. Two of those three criteria seek the 'maintenance or enhancement' of existing conditions. Enhancement is a laudable aspiration but, outside of the Conservation Area, permission could not be refused if a development only maintained rather than enhanced the situation. In other words, the harm would not be such as to outweigh the presumption in favour of sustainable development. In view of that I recommend the words 'at least maintain' in the second criterion.

4.09 The remaining (third) criterion in the replacement policy would be very difficult to assess in practice. There is no direct correlation between the maintenance of local facilities and services or the 'vitality of the community' and permitting development especially at the level of a single new dwelling. Any financial contribution for service provision, in the absence of any arrangement for Community Infrastructure Levy, would have to meet the tests for planning set in paragraph 204 of the NPPF. I have serious reservations as to whether the third criterion is likely to be implementable and recommend the insertion of the words 'where applicable' as an indication that the paragraph 204 tests would have to be satisfied.

4.10 The first suggested criterion in the replacement Policy O1 would be concerned with residential amenity. That, in itself, is a somewhat vague term although it is commonly used in planning decisions. The term requires definition in the plan but reference to paragraph 17 in the NPPF does not help. There needs to be a specific definition such as 'a serious reduction in privacy through over-looking and/or in daylighting or sunlight through over-shadowing by new development'. I have noted the discussion which has taken place with the local planning authority about the wording in relation to the nature of any harm. The policy criterion which the new over-arching policy would replace is that there should not be 'significant harmful impacts'. I find no reason to change that form of words.

4.11 The SPC have suggested that Policy C1 be deleted because its aims could be achieved through the new Policy O1. I recognise that the underlying desire of the local community is to increase the number of young families to move in to the village and to improve support and services for old people. Those are two of the original 'guiding objectives' but it is difficult to translate them into a meaningful planning policy which can be used in the determination of planning applications. To say that development which does either of those things will be 'welcomed and permitted' (or 'strongly supported'), even if subject to the criteria in Policy O1, would be difficult to balance with the important locational policy EN2 and could conflict with it. I consider that the two objectives, important as they are, can be delivered through other policies in the plan. For example, the desire to see more young families moving to the parish is part of the justification for seeking to permit more housing than might otherwise occur through the implementation of the WSLP. That is best achieved through Policy C2 by providing housing of a type which might attract such households. Existing services and facilities can be protected to a degree and Policy C5 encourages the

provision of suitable residential accommodation for older people but, for the most part, the provision of support and services specifically for old people lies outside the planning sphere. For these reasons I consider that the text based on the second paragraph of Policy C1 in the submitted plan should not be included in Policy O1. Indeed, it is of the nature of an aspirational statement which it is not appropriate to include as a plan policy.

4.12 As Policy EN1 is recommended to be assimilated within the new Policy O1 the text under the heading 'Local Environment' will need to be moved forward from page 7. As the WSDC suggest, a reference to figures 5 and 6 would be relevant in this section. The suggested reference to support for Use Classes D1 and D2 is not covered in the submitted plan. Even though it would be text rather than policy it would be an addition to the plan which is not required to remedy any deficiency against the basic conditions. It is beyond my remit to recommend its inclusion.

Recommendation 4

a. Delete Policy O1 and the introductory text. Replace it by the following:-

This Plan has specific policies for specific types of development. Underpinning these are the Overall Requirements for Development, which apply to all forms of development.

Policy O1 Overall Requirements for Development

Proposals for new development should ensure that:

- **there are no significant harmful impacts on residential amenity;**
- **the setting of the village, and the landscape and built character of the Parish, is at least maintained;**
- **there would be no significant harm to road safety, especially for pedestrians and cyclists;**
- **adequate parking is provided on site in order to minimise the need for additional on-street car-parking and**
- **where applicable, the provision and range of essential facilities and services, and the economic and social vitality of the community, is at least maintained.**

b. Include a footnote to policy O1 giving a definition of the term 'residential amenity'

Main Issue b. The location of development – Policy EN2

Procedural note. In their response to my written questions (Q10) the Stogumber Parish Council have stated that, by a majority vote, they had decided that references to development in the hamlets could be deleted. I need to stress that as the plan is under examination it is no longer open to the Parish Council to make amendments to the plan. As stated in paragraph 1.3 of this report, in reaching conclusions on the issues raised in representations, including those made by the WSDC, I may recommend modifications only should I consider that the submitted plan fails to meet one or more basic condition and modification would remedy that position. I will take the SPC's written responses to my questions into account in informing my conclusions. It is for the Local Planning Authority to decide what modifications should be made to the plan in the light of my recommendations.

4.13 Policy EN2 is an important policy within the plan because it is the policy against which most development proposals are likely to be judged, at least as to whether the location of a site is such that development is acceptable in principle. Although it sets a priority for the use of previously-developed sites (or land) over greenfield and provides (as footnote 7) a cross-reference to the definition of previously developed land included in the NPPF the policy widens the categories of land which 'will also be considered for new development'. The minor issues which arise from the interpretation of the words used in the policy will be considered in a later section of this report.

4.14 The main issue raised in a representation by the WSDC arises from the inclusion of the hamlets of Capton, Lower Vellow and Kingswood as 'preferred locations' in addition to Stogumber village itself. Stogumber village is listed under Policy SC1 of the West Somerset Local Plan (WSLP) as a primary settlement where 'limited development'¹⁵ may be permitted where it is demonstrated that it will contribute to wider sustainability benefits for the area and also where it is 'within or in close proximity'¹⁶ to the contiguous built-up area' subject to site-specific criteria. Policy SV1 also applies. As the hamlets are some distance away from Stogumber itself they are treated as lying within the Open Countryside to which Policy OC1 applies. That policy permits development only exceptionally where it is judged to be 'beneficial for the community and local economy', including agricultural workers dwellings or affordable housing exception sites.

¹⁵ Defined as 'individual schemes of up to ten dwellings providing about a 10% increase in a settlement's total dwelling number during the Local Plan period, limited to about 30% of this increase in any five year period.'

¹⁶ Defined as within 50 metres of the boundary

4.15 By including land occupied by farm buildings or within private residential gardens¹⁷ within and immediately adjacent to both Stogumber and the hamlets as 'preferred locations' within SNP Policy EN2, the potential for sites to satisfy the policy requirements is quite wide. There is no distinction between Stogumber and the hamlets. Consequently, a proposal for a dwelling on land within or immediately adjacent to one of the hamlets would be treated no differently from one in a similar position relative to Stogumber village. When I visited the area I observed that Kingswood is significantly looser knit in form than either Lower Vellow or Capton giving significant potential for garden development. Capton, on the other hand, includes a number of agricultural buildings. The policy, therefore, gives potential for development in both places.

4.16 For these reasons, SNP Policy EN2 contradicts the approach which has been taken in the only relatively recently (November 2016) adopted local plan. It is clear from the Inspector's report on the examination of that plan that an option of greater dispersal of housing development was not pursued and that the policies aim to ensure that new development takes place in the most sustainable locations with a recognition that some development is required to assist in support for rural services.

4.17 Taken in isolation, a contradiction between a single policy in a neighbourhood plan and a strategic policy in the local plan would not necessarily mean that the neighbourhood plan failed to be in 'general conformity' with the strategic policies of the local plan. The word 'general' in the basic condition suggests a broad approach assessing the conformity of the neighbourhood plan as a whole with the strategic policies (plural) of the development plan¹⁸. However, rural settlement policy is a key aspect of strategic policy in a predominantly rural area such as West Somerset. Even though the number of dwellings suggested in the SNP for the hamlets is low (only 5) and would be a small proportion of the total housing development to take place in Stogumber, let alone the District as a whole, there is a risk that without a particularly convincing justification, based upon locally distinctive characteristics, a departure from the hierarchical approach taken in the WSLP might well apply equally within other neighbourhood plan areas, thus cumulatively undermining the local plan strategy contrary to paragraph 184 in the NPPF. The WSLP post-dates the NPPF and the latest update to the PPG was in May last year, it may therefore be assumed that the Inspector took account of both the Government policy and guidance in finding

¹⁷ The Courts have clarified that the exclusion of gardens from the pdl definition applies only to such land 'within built-up areas' Court of Appeal ref. [2017] EWCA Civ 141, dated 9 March 2017

¹⁸ See guidance on this matter in the PPG, Ref ID 41-074-20140306

the draft plan, including its settlement strategy, 'sound'. For these reasons, I consider that the inclusion of the hamlets as preferred locations for development is not in general conformity with the WSLP settlement policy. Moreover, there is no indication that the development envisaged for the hamlets would be in accordance with the limited exceptions listed under WSLP Policy OC1.

4.18 The justification for the inclusion of the hamlets is given within the text on page 8 of the plan under the heading 'Location of Development'. However, that text includes unsubstantiated statements such as 'a small amount of development ... within and adjacent to the hamlets in order to re-inforce the landscape and built character of the Parish' and that the hamlets 'are also considered to be sustainable locations for small amounts of development due to their built form and relative proximity to services and transport infrastructure'. No further evidence has been provided to me to justify such assertions. I did not see anything about the built form or character of the hamlets which would suggest that further development there would provide a positive enhancement to their character. Lower Vellow and Kingswood are closer to the A358 than Stogumber but not within reasonable walking distance of the bus services along that road. Capton is somewhat isolated at the end of a dead-end lane. With the possible exception of Vellow, local topography and the narrow lanes suggest that, apart from possible support for the primary school, development in the hamlets would be unlikely to do much to support the services available in Stogumber. Also, all of the hamlets are closer than Stogumber to the higher order services available in Williton. Given the lack of public transport in the area any new development in the hamlets would almost certainly result in use of the private car for virtually all purposes. That contrasts with the position in Stogumber itself where it would be possible to walk to the school, local shops or the public house.

4.19 The reference in the Basic Conditions Statement to planning practice guidance on supporting sustainable rural settlements¹⁹ makes it clear that regard has been had to that guidance in drawing up the policy. Nevertheless, that guidance is to be read in the context of paragraph 55 of the NPPF. The concept relates to sustainability. In this case, as indicated above, it has not been established that the hamlets bear such a close relationship to Stogumber itself that development there would support local services in such a way as to represent sustainable development.

¹⁹ Ref. ID 50-001-20160519

4.20 Taking all of these factors into account, I conclude that including the hamlets as a preferred location for new development, primarily housing, would not contribute in any substantive measure to sustainable development in the parish and would not be in general conformity with an important strategic policy of the statutory development plan. This can be remedied by the deletion of any reference to the hamlets in SNP Policy EN2. That will also meet the concerns expressed by the Exmoor National Park Authority. As I deal with other, more detailed, aspects of the wording of Policy EN2 in paragraphs 4.51-56 below, a composite recommendation is made for a re-worded policy to follow that section of this report. It no longer makes any reference to quarrying.

Main Issue c. The amount of housing development

4.21 The WSDC have raised issue with the amount of housing development proposed over the 10 year plan period in SNP Policy C3. It is stated that the plan 'supports the delivery' of 14 additional dwellings in Stogumber village and five 'spread across the hamlets'. On page 22 of the WSLP it is explained that the term 'limited development' used in Policy SC1 means no more than a 10% increase in dwelling numbers over the 20 year plan period, 2012-2032, limited to about 30% of the total increase in any five year period. That is based on a figure of 164 existing dwellings in Stogumber village. I am informed that the 2011 census 'areas' included in the Appendix to the SNP relate to somewhat different areas, hence the discrepancy. A 10% increase would therefore represent 16 dwellings. 30% of that would be 5, that is one a year or ten in the 10 year SNP period. It has also been clarified that the figures relate to new build only, not conversions which are treated as 'windfalls'. I am informed that in the period April 2012 to March 2016 there were 10 dwelling completions in Stogumber but they were all conversions, one as the sub-division of an existing dwelling.

4.22 As there have been no 'new build' completions in the village since 2012 the 14 additional dwellings provided for in SNP Policy C3 represent four more than what is termed 'limited development' under WSLP Policy SC1. Even so, I do not regard the difference to be so significant as to mean that the SNP is not in general conformity with the WSLP, (*see also paragraph 4.17 above*), bearing in mind that, as it is indicated in WSLP Policy SC2, the housing provision figures are approximate. That would apply even if the 5 dwellings envisaged for development in the hamlets were added to the village figure making 19 new dwellings over 10 years. Although almost double the WSLP 'limited development' rate it would not be a significant strategic conflict taking the plan as a whole.

4.23 The approach taken in the NPPF to housing provision is that meeting the objectively assessed needs for housing is a minimum requirement. Also, as stated in paragraph 184 of the NPPF neighbourhood plans should not provide for less housing development than in the local plan, indeed many provide for more. Practice guidance on rural housing²⁰ indicates that a neighbourhood plan can allocate additional sites to those in a local plan where supported by evidence of local need, although there are no allocations made in this plan.

4.24 It is stated on page 7 of the plan that the 'slightly elevated level of development than envisaged in the local plan is 'in order to sustain the community and local economy'. It has also been stressed in the written response to my questions, that a balance has been sought between the community's acceptance of additional development to aid the viability of essential services and facilities and, the impact of such development on the built and natural environment and its effect on the social fabric. However, in order to justify any particular level of housing provision in the plan there should be robust, but proportionate, evidence in support of it.

4.25 The Exmoor local housing needs survey conducted in August/September 2014²¹ provides an interesting perspective on the intentions of those existing residents who might choose to move house in the next 10 years, including some who identify a desire for self-build, but the results do not directly support the specific number of dwellings proposed. Indeed, it might suggest that more are required. It is undoubtedly the case that additional housing development would, to a degree, assist in supporting local services and, at my request, I have been supplied with statistics from the County Education Department which show that although Stogumber Primary School is at capacity with 49 children on the roll there is capacity at nearby Crowcombe²². It also shows that without further development the number on the Stogumber school roll is forecast to decline to 32 by 2021. In itself, that does provide a degree of justification for additional housing development but not for the specific number chosen.

4.26 I gather from the SPC's written response that work has been undertaken to identify possible sites for housing development which would come within the terms expressed in policy EN2 and meet other environmental policy criteria but, for various reasons, the results of that work have been with-held from this

²⁰ PPG Ref. ID 50-001-20160519

²¹ As part of the Exmoor Rural Housing Project

²² This evidence does not support the statement on page 20 of the SNP that the schools are 'over-subscribed'.

examination. I cannot, therefore, assess the likelihood of those sites being delivered within the plan period. It is an important aspect of plan-making that plans should be deliverable²³. I am advised that the redevelopment of the Hill Farm yard for 8-12 dwellings is considered likely but, otherwise, I have not been presented with any evidence to support the level of development proposed. I am informed by the Parish Council that the 5 dwellings proposed in the submission plan could be developed in or adjacent to the village itself and, indeed, that 'there are a number of potential development sites that, if they were all developed in the plan period, could significantly exceed the proposed limit of 19 houses.'²⁴ It is also not clear how the figure can take account of conversions because, by its very nature, that tends to be something of an unknown quantity.

4.27 From the Parish Council's responses to my questions, and the wording of the first part of Policy C3 itself, it appears that the figures of 14 and 5 are seen as targets but that is not explicitly stated either in the policies or in the accompanying text. Without relating the figures to specific sites they can be no more than estimate, based upon undisclosed survey work, of the capacity of sites which meet plan objectives and which might come forward during the plan period. It is Government policy that plans should provide positively for growth. Without robust justification it would be contrary to that policy to set a limit. As there is only a very loose relationship between the quantum of development and any support it may provide for local services there is no clear justification for the inclusion of any particular figure in the plan.

4.28 My conclusion on this issue is that, although the stated level of provision for housing in the plan may reasonably be regarded as in general conformity with WSLP policy SC1, there is inadequate justification for the inclusion of any particular figure in policy. It can be treated as no more than an estimate derived from stated community preference. Moreover, as the parish council say that they have deliberately chosen to provide a criteria-based policy against which applications for planning permission for housing will be judged, the inclusion of a figure in policy serves no useful purpose. Indeed, having regard to Government policy, any plan housing provision figure should be supported by specific site allocations which can be tested for their deliverability. Inadequate regard has been had to the practice guidance on the need for policies to be supported by

²³ PPG, Ref. ID 41-005-20140306

²⁴ Quote from the SPC written response to my supplementary question 2

proportionate, robust evidence²⁵. To meet the basic conditions, the figures should be removed from Policy C3 although they might remain in the supporting text as an indication of the level of development which is considered by the community to be appropriate over the plan period. *(A composite recommendation (No. 14) for all modifications to Policy C3 is given following paragraph 4.83 below.)*

Main Issue d. Affordable housing provision (policy C3)

4.29 After somewhat protracted legal proceedings the Courts upheld the Ministerial Statement of 28 November 2014 on the minimum site size threshold below which Local Planning Authorities should not seek the provision of affordable housing as an element of mixed open-market and affordable housing sites. That is distinct from 'rural exception sites'. The Ministerial Statement represents Government Policy which has now been incorporated in the PPG.²⁶ Although the national lower threshold is set by this policy to 11 dwellings, subject also to floor space considerations, it is 6 dwellings for certain recognised rural parishes of which Stogumber is one.

4.30 No specific justification has been given for a lower threshold of three, other than that in applying a 33% 'quota' (as distinct from 35% as in WSLP Policy SC4) this would equate with one in three dwellings. The Parish Council have now accepted that there is no local justification to depart from national policy and accept that the plan should be modified to bring it into line with national policy.

4.31 The WSLP Policy SC4 low threshold, in line with Government policy, is 6 and sets a contribution level of 35%, which would mean 2 affordable homes on a site for 6 houses all told (4 open-market). The SPC have indicated that they would be content to apply the 35% figure, although that presents an arithmetic problem (35% of 5 being 1.75). I do not regard the slight difference from the WSLP in terms of the threshold raises an issue of general conformity but it would cause difficulties in implementation of the policy and give rise to uncertainty for landowners as to exactly what the required provision might be. For example, if a development was for 10 dwellings would the affordable housing requirement be 3 or 4 dwellings? (35% of 10 being 3.5). Also, it may reasonably be assumed that evidence will have been presented on the effect on the viability of smaller developments as a basis for the WSLP policy. On the other hand, there is no

²⁵ PPG, Ref. ID 41-041-20140306

²⁶ Ref ID 23b-031-20161116

evidence from Stogumber on the implications for development viability, and hence deliverability, of applying a lower threshold of 5 rather than 6. Also, restriction of the open-market dwellings to 'principal residency' might well provide less 'cross-subsidy' for affordable housing. No consideration appears to have been given to this factor. Given the lack of locally-specific evidence and to avoid confusion I recommend that the lower threshold is 6 with a 35% contribution, as in the WSLP policy.

4.32 Part 4 of WSLP policy SC4 provides that on developments of between 6 and 10 dwellings there will be a financial contribution towards off-site provision for affordable housing rather than on-site. However, I fully accept the SPC justification for not applying that approach in Stogumber. Firstly, it is true that there is no requirement in national policy to follow the WSLP approach for everywhere outside the recognised rural settlements where the lower site-size threshold for any contributions is 11 dwellings. Secondly, the benefits of affordable housing at village level are in enabling local young people to remain within the community should they so choose rather than being forced elsewhere by the cost of housing. 'En lieu' payments could not easily be 'ring fenced' for development within the same community given the restricted availability of suitable sites, although they might help to fund an exception site. I am informed that in March 2017 Somerset Homefinder data indicates three registered applicants for affordable housing who have expressed a preference for Stogumber.

4.33 The concept of combining two sites in order to assist the feasibility and viability of development is an interesting one. I have some reservations as to how practical it might be to identify such sites unless they were in the same ownership. If it results in segregating affordable housing from open market housing rather than achieving a mix that might well militate against the creation of a balanced community as sought by Government policy. It is, however, a matter which may be left to local discretion in application.

4.34 I agree with the WSDC that the current need, derived from the 2014 study, for two bed units is likely to change over time. It is not possible to 'change the requirements' of a policy except by formal amendment of the plan. This could cause difficulty in policy implementation and that reference should be deleted. The important point is that affordable housing provision should be matched as far as possible with the latest available information on housing need.

Subject to resources, housing needs surveys should be carried out regularly. For clarity, the words 'known local need' should be qualified by reference to the most up-to-date survey of local housing needs.

4.35 The fourth paragraph in Policy C3 sets out, in detail, criteria in accordance with which the occupancy of any affordable housing units should be determined and then, in the fifth paragraph, applying what might be termed a 'cascade' approach to broaden the geographical qualifications for occupancy by those in housing need should there be no local applicants meeting the criteria in the fourth paragraph. The concept is a simple one: that priority should be given to local applicants over those from further afield.

4.36 As the WSDC have stated in their representation that Council, acting as a Local Housing Authority (LHA), has a statement of intent for allocating affordable housing. Indeed, the development of housing allocation policy is a statutory duty under the Housing Acts. It is not a responsibility of the Local Planning Authority (LPA) under the Town and Country Planning Acts although criteria are included in s106 agreements in appropriate cases. I am aware that such criteria have been included in policies in other neighbourhood plans, including the Lyn Plan, but I do not know whether the issue has been raised in representations on those plans as the WSDC have done in this case. Policies in Neighbourhood Plans are limited to land-use matters and whereas planning permission might be refused if the type and mix of housing on a particular site is not as required by such policies, the question as to the residency qualification of individual applicants for affordable housing, once built, could only be decided in conjunction with and by the agreement of the LHA. Also, no evidence has been presented by the SPC to justify the detail of the criteria in Policy C3 although there has been consultation with the Magna Housing Association. The WSDC state that these are more restrictive than those applied by the Council as LHA.

4.37 In conclusion, although the desire to ensure that any affordable housing provided in the village should be made available on a priority basis to those in need with local associations, that is a matter which can only be resolved by discussion with the WSDC as a housing authority, they cannot be 'forced' on that authority through a neighbourhood plan policy. I, therefore, see this as being in the nature of an aspiration by the local community. As stated in the PPG²⁷ such non-planning aspirations can be included in neighbourhood plans but they must

²⁷ Ref. ID 41-040-20160211

be clearly identifiable. Having regard to that guidance means that the fourth and fifth paragraphs of Policy C3 should be removed from the policy itself and, after further discussion and agreement of Local Housing Authority, may remain within the body of the plan in conjunction with the policy as long as it is clearly identifiable as a community aspiration.

Examiners Note: Understandably, the plan has been drawn up with the current model of affordable housing, as defined in the Glossary to the NPPF, in mind. However, a Government consultation has only recently closed on proposals to significantly widen the NPPF definition to include starter homes, discounted market sales housing and affordable private rented housing. Those categories of housing would not come under the purview of the Local Housing Authority. However, as this is only a consultation and the current General Election is likely to delay the issue of any revised policy guidance, the conclusion I have drawn has necessarily been based on the current NPPF definition.

Main Issue e. The 'principal residence' condition

4.38 The sixth paragraph in SNP Policy C3 states, simply, that 'all other dwellings' will be 'principal residence dwellings'. As this follows from the part of the policy which deals with 'local needs affordable units' it must be assumed that the reference is to any dwellings available on the open market whether they be for sale or rent. As things stand (*see note above*), it would apply to any open-market rented or starter homes, whether affordable or not. It would also apply to self-build dwellings.

4.39 There is no justification in the plan at all for the imposition of a restrictive condition of this kind. The third paragraph in the text on page 17 of the plan preceding Policy C3 states that the condition is to prevent new open market houses from being occupied as second or holiday homes but does not seek to justify it otherwise. There is no reference in the Basic Conditions Statement to this element of Policy C3 although in the Consultation Statement a response is given to a representation on the draft plan which acknowledges that Stogumber does not have a large number of second homes at present.

4.40 In my question 17e. I drew attention to the guidance in the PPG that occupancy conditions should only be imposed on 'exceptional occasions'. The very clearly should not be imposed lightly and they require very particular

justification. In general terms, all neighbourhood plan policies should be supported by 'proportionate and robust' evidence.

4.41 The only 'evidence' put forward to support this policy is the statistical analysis contained in the appendix to the plan which provides selective extracts from the 2011 Census. That shows, as the SPC have accepted, that there were relatively few dwellings in 2011, only 8.8% of the total in the parish as a whole, identified as having 'no usual residents'. That will include those occupied as second or holiday homes but also vacant dwellings.

4.42 The SNP policy is based on that included in the St. Ives Neighbourhood Plan, but there, as stated in the plan, 25% of the housing stock according to the 2011 Census was not occupied by a resident household²⁸ and there had been a 67% increase since 2001. There is a full analysis of the social impact that this is having on that community. There was considerable press coverage at the time the Examiner's St Ives report was released which stressed the very difficult situation in that neighbourhood area. More recently, two neighbourhood plans in Cornwall have come forward with a similar policy, again justified by the problems caused by high second or holiday home ownership. As stated in the plans, in the Rame Peninsula it is approaching 40% and at St. Minver it is 60%. The inclusion of a 'principal residence' policy in the Stogumber plan cannot be justified on the basis of second or holiday home ownership.

4.43 Instead, the SPC now put forward the argument that one of the main reasons that the community has accepted the concept of a level of development in the village over and above that provided for in the WSDP is in the benefits this would bring by the additional population helping to support local services, see paragraph 4.25 above. If new dwellings are not occupied as 'principal residences', so it is argued, they will not provide the desired support, for example, from families with children to support the local school. I am referred to the qualification in WSLP Policy SC1 that development 'will be permitted where it can be demonstrated that it will contribute to wider sustainability benefits of the area' with the suggestion that this is a way to achieve that.

4.44 There no indication within the WSLP itself as to what might be expected of an applicant in order to demonstrate such sustainability benefits except, perhaps, in the last sentence of the fourth bullet point under the justification for Policy SC1 where it is stated that development of an 'appropriate scale' in

²⁸ St Ives Neighbourhood Plan, page 25.

villages can secure the range of services and employment opportunities available in villages. It is linked to Policy SV1 which refers to the creation of 'balanced communities'. There is indeed, a reference to there being a strong demand for second and holiday homes as part of the justification for allowing more village development but there is no suggestion in the Local Plan that there should be a restriction on the occupancy of new dwellings.

4.45 The neighbourhood plan for Lynton and Lynmouth also includes a principal residence policy but that is in the context of a very restrictive policy applying to all new housing within the Exmoor National Park which applies to both affordable and open market housing. Even though that part of Stogumber parish which lies outside this neighbourhood plan area is within the National Park, the West Somerset Local Plan is significantly less restrictive.

4.46 There is also another factor to be taken into account which I touch upon in paragraph 4.31 above in connection with the provision of affordable housing. It is clear from the wording of policy C3 that it is based on the assumption that affordable housing in Stogumber will be achieved by mixed development on relatively small sites. No analysis appears to have been undertaken of the effect a restriction of open-market dwellings to that of principal residences might have on property prices and hence the viability and deliverability of housing development. It is an important aspect of Government policy that the planning system should deliver a wide range of new homes to meet need. There is an identified need for a small number of affordable homes in Stogumber. I consider there to be a real risk that a principal residence requirement applying to all open-market housing would make mixed sites delivered under SNP Policy C3 together with WSLP Policy SC4 unviable to such an extent that the number of affordable houses would need to be reduced.

4.47 In their representation on policy C3 the WSDC express reservations about the enforceability of any principal residency condition. The term would certainly need to be clearly defined as has been attempted in other plans. Academic articles suggest that there would also need to be s106 obligation which would show on the Local Land Charges Register. Should an individual's circumstances change it might prove very difficult to enforce the terms of a condition alone.

4.48 Be that as it may, my conclusion on this issue is that there is simply not the level of evidential support, neither proportionate nor robust, for the inclusion of a principal residence restriction on the occupancy of new open-market

dwellings in Stogumber. The argument that it is necessary to support local services is a very generally based one which could apply to any rural area. It is certainly not an exceptional situation which is anyway parallel to the effect on the affordability of local homes which has been demonstrated to the satisfaction of examiners in the Cornish examples given above. There are also significant differences from the situation applying within the Exmoor National Park at Lynton-Lynmouth. For these reasons, I consider that the policy as drafted fails to meet the basic conditions in that insufficient regard has been had to Government policy guidance. Much more robust evidence would be required to demonstrate why a restrictive occupancy condition was necessary in order to ensure that new housing development contributed to the sustainability of Stogumber.

Other issues arising in plan policies

4.49 As indicated above, other issues arising from the representations on plan policies will now be considered briefly, in plan order. Recommendations for modifications take account of my conclusions on the 5 main issues in the previous paragraphs.

4.50 *Policy EN1. Local Environment.* The Parish Council have agreed that the inclusion of a revised Policy O1 (Recommendation 4a.) makes Policy EN1 superfluous. I agree that if it were to remain there could be ambiguity in the application of plan policy which the PPG cautions against²⁹.

Recommendation 5

Delete Policy EN1

4.51 *Policy EN2. Location of Development.* After my initial appraisal of the plan I found it necessary to pose a number of questions about the purpose of this policy, quite apart from the treatment of the hamlets (*Main Issue b.*). As it stands, the policy intention is not at all clear which would be likely to cause some difficulty in its interpretation and implementation by the LPA in decision-taking. In that respect, insufficient regard has been had to national planning practice guidance and the relevant basic condition is not met.

4.52 The replies to my questions have been very helpful. I consider that, for the most part, the revised wording put forward by the SPC would provide a clear

²⁹ Reference ID 41-084-20160519

and unambiguous policy and meet the basic condition subject to some further amendments as discussed below. The policy would, of course, apply together with the relevant WSLP policies. The suggested wording would be closely modelled on that in part 4 of WSLP Policy SC1 referring to the preferred location for new development being within or in close proximity³⁰ to the 'contiguous built-up area of Stogumber village'. However, I have some concerns about the precise wording. It needs to be clear that development within the existing built-up area is a 'preferred location' and that development in close proximity to that area, defined as in WSLP Policy SV1 as within 50 metres of it, has also (*my emphasis*) to be contiguous with the existing built-up area. Otherwise, there could be development within 50 metres which is separated from the built-up area by a strip of undeveloped land. The word 'existing' to qualify 'built-up area' is also important to avoid development creep with a constantly moving boundary.

4.53 I am aware that settlement boundaries were defined in the 2006 Local Plan shown as lines on inset Proposals Maps but that approach has not been followed in the 2012 WSLP. Instead, there is a definition of the term 'built-up area' in the supporting text to WSLP Policy SC1. I have reservations about that approach because it leads to questions over how the phrase will actually be interpreted in the context of individual applications. A landowner would not be given a clear indication by the plan as to whether a particular piece of land was developable or not. I consider that certainty and clarity can only be achieved by the inclusion of a map within the Neighbourhood Plan to show what is intended as the outer boundary of the 'built-up area' for the purpose of interpreting and implementing Policy EN2. As it has not been possible for a map to be produced within the timescale of this examination my recommended wording for the policy will make reference to it and it will need to be produced before the plan is finalised. It will be a matter for the District Council as to whether further consultation is required on that map.

4.54 It is entirely consistent with national policy that preference should be given to the development of previously developed land although I am advised that there is very little suitable and potential development land in Stogumber which comes within the NPPF definition. Rather than seeking to widen the definition of previously developed land, which could lead to confusion, it is only

³⁰ Defined as within 50 metres

necessary, as would be done in the SPC suggestion for a revised policy, to make it clear that given the particular nature of the existing development in Stogumber new development on private garden areas, subject to the criteria in revised Policy O1, would be acceptable to the community. That is helpful in so far as private gardens are excluded from the NPPF definition of previously developed land.

4.55 The wording of WSLP Policy SV1 is such that if a farm complex were situated on the edge of the built-up area, in close proximity and contiguous with that area, it might be considered for re-development. The fact that farmyards and buildings are otherwise excluded from the definition of previously developed land would not be relevant in that context. Such land could not be included within the existing built-up area by reason of the definition in the WSLP (*see 'justification' text to Policy SC1*) and I do not think it would be logical to do so. However, there is no reason why a 'preference' for the development on such sites should not be expressed as in the suggested modification to SNP Policy EN2.

4.56 With the modified wording to the first part of the policy it would be slightly misleading to leave the second part, starting 'All other land will be regarded as greenfield.', unaltered. The last paragraph in the supporting text, on page 8, helpfully lists the policies covering the types of development to which it is envisaged Policy EN2 will apply although I agree with the WSDC that to avoid confusion with categories within the Use Classes Order (e.g. Residential Institutions are in Use Class C2) the text should specifically state that that the references are to plan policies. It is notable that the list does not cover development under Policies EC1, EC5 or EC7 which is likely to be on 'greenfield' land. It is also not necessary to say that new development on greenfield land 'will be supported only in exceptional circumstances' because such circumstances would be material considerations which can always be weighed against plan policy. In practice, all land which does not come within the terms of the first part of Policy EN2 would be within the 'open countryside' where policy WSLP Policy OC1 applies, which provides for exception sites for affordable housing and agricultural worker's dwellings. A simple reference to the open countryside would allow a clear application of that policy and still met the original intention of the SNP.

Recommendation 6

a. Delete Policy EN2 and replace it with the following policy:-

The preferred location for new development is within the existing built-up area² of Stogumber village, or in close proximity¹ to, and contiguous with, that area on:

- **previously developed land as defined in the NPPF⁷; or**
- **land within private residential gardens; or**
- **land that is or has been occupied by agricultural or forestry buildings.**

All other land will be regarded as lying within the Open Countryside. Development will not be permitted on designated Local Geological Sites or Local Wildlife Sites (see Appendix 3).

¹ **'Close proximity' is defined as within 50 metres**

² **As shown on the map included as Figure * (* number to be inserted)**

b. Prepare a map for inclusion in the plan which shows the boundary of built-up area of Stogumber for the purposes of the implementation of SNP Policy EN2 as recommended to be modified.

4.57 Policy EN3. Setting of Stogumber. Although the setting of Stogumber is one of the factors listed in the recommended revised Policy O1 and the first two sentences of the second part of Policy EN3 is an unnecessary duplication which does not assist the clarity of the plan, I do not consider that the remainder of the policy fails to meet any of the basic conditions. The final sentence in particular is a firm policy statement. Consequently, I recommend only the removal of the overlap and duplication, not of the whole policy.

Recommendation 7

Delete the first and second sentences in the second paragraph of Policy EN3, that is 'The location of new development ...' to '... the setting of the village.'

4.58 *Policy EN4. Larger Development Sites.* I have drawn attention, in my question 11, to the fact that this 'policy' is not written in the form of a policy at all. Rather it is more of a statement of opinion: that larger sites (for over 10 dwellings) have the ability to bring proportionally greater benefit to the community. In response to that question, the SPC refer to the 14 dwelling figure as a 'development limit' but, as I conclude in paragraphs 4.27-8 of this report, it is not expressed as a limit nor has it been justified in those terms.

4.59 In very general terms the policy could read as seeking to encourage development for 11 dwellings or more so that they would come within the terms of WSLP Policy SC4 to yield a proportion of affordable housing on a mixed site. However, the 2014 housing needs survey is not only dated but does not clearly identify what is the level of need for affordable housing. There is a statement on page 15 of the SNP that the need for affordable houses to rent 'is limited'.

4.60 The WSDC are correct to state that a development of the size and nature envisaged in this policy were it to be in addition to the provision of 19 dwellings in accordance with the submitted SNP Policy C3 would take the total amount of development within the village well beyond the strategic concept of 'limited development' under WSLP Policy SC1.

4.61 If 'Policy' EN4 was to be re-written so that it more clearly stated how a decision-maker is to react to a planning application for a development of 11 or more dwellings in the village over and above those envisaged by Policy C3 (it is not at all clear how that judgement could be made) it would not meet the basic conditions because it would, in those circumstances, take the level of development out of general conformity with the strategic policies of the development plan. There is also no evidential basis for the underlying assumptions on the benefit such development might bring to the community.

4.62 In the light of the above I can only recommend that, for the plan to meet the basic conditions, both Policy EN4 and the accompanying text, under the heading 'Larger Development Sites' should be deleted in their entirety.

Recommendation 8.

Delete Policy EN4 and the accompanying text.

4.63 No modifications are recommended to Policy EN5.

4.64 *Policy EN6. Flood Risk.* The SPC have accepted that the first paragraph in the policy is, actually, a word-for-word repetition of the first paragraph in the supporting text and can be deleted. It is not a policy statement, nor is the second paragraph which is in the nature of an informative better included within the text. I regard these as errors.

4.65 In response to my question 12 the SPC have provided more information and clarification as to why, in the local context, the policy indicates that development in Flood Zones 2 and 3 'will not be supported', in other words, development will not be permitted. As the WSDC state that is not in accordance with national policy which sets out requirements for sequential and exceptions tests and does not preclude development altogether. However, the Environment Agency have not objected to the policy as worded and it is clear that the policy is a proper reflection of local circumstances and that regard has been had to the national policy. For those reasons, the third paragraph may be considered as meeting the basic conditions.

Recommendation 9

Delete the first paragraph in Policy EN6 and merge the second paragraph into the supporting text.

4.66 *Policy EN7. Renewable Energy.* The WSDC have raised concern about the inclusion of wind turbines within the definition of 'renewables' under this policy when the plan does not identify the area as being suitable for wind energy development as would be required in practice guidance³¹. Although it is clear from the policy that it is intended to apply only to small-scale development for local use and not designed primarily to 'export' power to the National Grid, the fact that small domestic wind turbines are 'permitted development' might give rise to uncertainty in the application of the policy. The SPC have agreed that for the sake of clarity the reference to wind-turbines should be removed from the definition and reference made in the text to permitted development rights.

4.67 This is also one of the policies which include criteria which, under Recommendation 4 would be included in the new overall policy O1. Although it is not strictly necessary, for ease of use of the plan I recommend inclusion of a cross reference to Policy O1 to replace deleted criteria.

³¹ PPG, ref. ID 5-005-20150618

Recommendation 10

a. Reword the first two paragraphs of Policy EN7 to read as follows:-

Small-scale on-site renewable energy development and proposals for micro-renewable energy schemes to serve individual or small groups of buildings, mounted on buildings or on the ground, will be permitted provided that the overall requirements for development, as set out in Policy O1, are met.

b. In the definition of 'renewables', delete the reference to wind turbines and include mention of permitted development rights within the supporting text.

4.68 *Policy EN8. Transport and Development.* This policy is in two distinct parts. The first part looks to supporting development which would reduce the need to travel outside of the Parish for employment or services. That is a laudable aim and I can well understand that the Parish Council might well support new local employment within the parish especially if it was easily accessible from Stogumber village, but the local planning authority would need to take a balanced view, taking account of sustainability factors in the round. Also, SNP Policy EC1 provides general encouragement for business and employment development. Consequently, as framed, the policy is unlikely to assist in the consideration of planning applications. As the WSDC question, it could mean refusing permission for development which does not reduce the need to travel by private car.

4.69 The second part of the policy deals with the local impact of development on highway safety etc. and would be adequately covered within the revised Policy O1 (Recommendation 4).

4.70 Taking these factors into account, I conclude that inadequate regard has been had to practice guidance on the purpose of neighbourhood plan policies in providing a clear basis for planning decisions. The SPC have suggested that the policy be deleted and I agree that to be necessary for the basic conditions to be met.

Recommendation 11

Delete Policy EN8.

4.71 *Policy C1. Local Community.* The WSDC have made representation on the last part of this policy dealing with the loss of facilities and services as the result of new development. There is concern that the policy might result in derelict or unused buildings. That part of the policy is covered more appropriately in the recommended revised Policy O1.

4.72 As with a number of other policies, this is primarily an indication of community aspirations rather than being a clear and unambiguous planning policy. It is not at all clear what kinds of development, in terms of type and scale, would achieve the policy aims because there is little indication in the plan of what the needs of the community actually are. Support and services for older people are not matters for the planning system and it is the type and price of new housing which would be most likely to attract young families; that factor could be mentioned in Policy C2. So, again, the policy does not provide an adequate basis for planning decisions and should be deleted with appropriate additions to other policies. In effect, the policy may be 'downgraded' to the plan text to provide a context for the policies which follow.

Recommendation 12

Delete Policy C1 with the aspirational aspects being included in the supporting text for other relevant policies.

4.73 *Policy C2. Housing Sites.* In response to the points raised in my question 16 which largely reflect issues raised in the WSDC representation, the SPC have suggested several deletions from this policy. However, I regard this as an important policy which assists in providing a positive approach towards the provision of housing for the community. To be fully reflective of the basic conditions it needs to be strengthened somewhat.

4.74 For example, I have drawn attention to the fact that the second sentence in the supporting text on page 15 reads as a policy. It ought to be a policy, not deleted. It covers an important point. I consider that the aspirations expressed in Policy C1 as submitted, that is in ensuring that development meets local needs and assists in attracting young families to the village, would be best achieved by ensuring that the type and size of new dwellings which are built do, in so far as possible, meet those needs. That is both through open market as well as from

affordable housing. A brief summary of the need for particular dwelling types identified in the 2014 survey is given in the sixth paragraph on page 16. That remains the most recent survey which needs to be referenced in this policy, not just for affordable housing. Effective implementation of the plan will depend upon there being regular housing needs surveys for all housing types and tenures.

4.75 The first sentence in the policy merely draws attention to other plan policies which would apply to housing proposals and so is not strictly necessary, but I do not have any basis for recommending its deletion. The meaning is clear enough and it is helpful to the lay reader. The second sentence is a slight variant on Policy EN5 which covers the issue in more detail; deletion would be in the interest of plan clarity. I accept that the third sentence has a particular local meaning reflecting experience of more recent housing layouts and the need to ensure that new development is properly integrated with the existing. With the deletion of references to development in the hamlet(s) the reference may just be to 'the village'. I also accept that those dwellings to be managed by social housing providers are, in the village context, unlikely to be so far apart as to give rise to management difficulties. The SPC suggested re-wording of the last sentence should meet WSDC concerns about the difficulty of application but that is recommended to be included in Policy C3 to which it relates more directly.

Recommendation 13

- a. Delete the second sentence in Policy C2.**
- b. At the end of the third sentence in Policy C2 delete the words 'of Stogumber or the hamlet' and replace by 'the village'.**
- c. Replace the fourth sentence of Policy C2 by the following revised wording: 'New housing development in the village should provide a variety of house types, sizes and tenures to meet local needs as identified in the latest local housing needs survey with a particular focus on the provision of housing suitable for young families and for the elderly. Tenures should be well mixed across the development.'**

4.76. *Policy C3. Housing Delivery.* This is an important policy within the plan and the issues arising from the indication of housing numbers, the provision of affordable housing and occupancy conditions, including a 'principal residence' requirement are discussed above as Main issues c. to e. inclusive. In the following paragraphs I discuss the remaining issues raised in representations leading to a composite recommendation for modification to the policy.

4.77 *Policy paragraph 7. Average and minimum internal floor areas.* Although there is some explanation in the fourth paragraph on page 17 in the plan of the reason for imposing an average maximum net floor area for new dwellings which is to ensure that dwellings are of a size to meet local needs, including downsizing, and to attract young families, no evidence had been produced to show how the particular figures of 100m² and 50m² had been derived or, how including such limits in the plan would achieve the stated aims. In response to my question 17f. the SPC have provided some information taken from a 2010 Government survey showing that the average net internal floor area for a 4-bedroomed house was around 82m suggesting that a 100m would not be unreasonable. However, most importantly, as the WSDC point out, no viability assessment has been undertaken to establish whether such restrictions would have implications for the deliverability of new housing development.

4.78 Although the main reason for including this policy in the plan is not to set space standards it is tantamount to so doing. Government have made it clear³² that if space standards are to be included in a local or neighbourhood plan they should only be by reference to the nationally described space standards.³³ The Ministerial Statement made on 25 March 2015 states:

'local planning authorities and qualifying bodies preparing neighbourhood plans should not set in their emerging Local Plans, neighbourhood plans, or supplementary planning documents, any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings.'

4.79 I have to conclude that the SPC in drawing up Policy C3 in the SNP have not had regard to that clear statement of Government policy. This applies, in particular, to the setting of a minimum dwelling size of 50m² net without a very specific locally-based justification or viability analysis. The position with regard

³² PPG ID Ref. 56-018-20150327

³³ 'Technical housing standards – nationally described space standard' DCLG March 2015

to the 100m² average is, however, somewhat different. It is not a prescribed space standard to be applied to individual dwellings but a broad indication of average sizes in an attempt to ensure that new dwellings meet local needs. The averaging approach provides a degree of flexibility but the wording of the policy should not be overly prescriptive and should provide for the possibility that larger dwellings might meet either local needs or provide family housing. There must also be a caveat relating to a consideration of the effect on the viability of the development. With those provisos I consider that a modified policy might remain within the plan and that it would meet the basic conditions in so doing.

4.80 *Removal of permitted development rights for extensions.* The reason behind this policy provision is given in the penultimate paragraph on page 17 as 'to ensure that the dwellings remain of a sufficiently small size to meet the needs of the Parish'. Permitted development rights are set by Government by Development Order and it is stated in paragraph 200 of the NPPF there must be clear justification for the removal of such rights. It appears that the SPC have in mind that a condition removing PD rights should be attached to any permission for new dwellings, but a blanket requirement of that kind would not provide the LPA to consider the particular circumstances applying at a given point in time and whether the condition would meet the tests in paragraph 206 of the NPPF in those circumstances.

4.81 The WSDC rightly question whether removal of permitted development rights would achieve the stated aims of the plan. Young families often seek to extend their dwellings to accommodate increased space needs as children grow older. If dwellings could not be extended to meet such needs the alternative might be to move away from the village. It also needs to be borne in mind that the removal of permitted development rights only means that planning permission would be required for that development. As submitted, the plan does not provide a basis for the LPA to refuse such permission.

4.82 The most important planning consideration which underlies this policy is that the range of house types and sizes should continue to meet local needs. In considering and application for an extension the LPA would need to consider the whether the personal circumstances of the applicant, including the needs of that household for adequate housing – say for a growing family, were such as to outweigh the stated public interest of ensuring that the dwelling after extension

would continue to meet local housing needs. It may be a difficult balance which could have Human Rights implications. Only if it is clear in policy that such considerations would be taken into account on an individual basis might a removal of permitted development rights for extensions to all new dwellings be judged to meet the basic conditions.

4.83 The last paragraph/sentence in Policy C3 about self-build does not have any direct policy implication especially as the SPC have indicated it is not their intention that self-build proposals should be treated in any way differently to others. As the meaning is unclear its inclusion could cause difficulty in the implementation of the policy. It should be deleted for that reason.

Recommendation 14

a. Delete the first paragraph of Policy C3 and include an indication of the numbers of dwellings which might be expected to be delivered through the application of the criteria in Policy EN2 within the supporting text.

b. In the second paragraph of Policy C3, modify the first sentence to read: 'For proposals for six units or more it is required that 35% of the total shall be a local needs affordable unit, provided on the same site.'

c. Modify the third paragraph of Policy C3 to read: 'Local needs affordable housing shall be of a size and type to meet local needs as identified in the latest Local Housing Needs Survey. Planning permission will be refused should the number of dwellings proposed be lower than the site's reasonable capacity, taking account of site constraints, which results in a lower provision or contribution towards affordable housing.' Move reference to the currently identified needs to the supporting text.

d. Delete the fourth and fifth paragraphs which set out occupancy criteria for affordable housing from Policy C3; such criteria to be moved to the plan as an indication of the Parish Council's aspirations to be discussed and agreed with the Local Housing Authority.

e. Delete the sixth paragraph of Policy C3 and remove all references to the imposition of a 'Principal Residence' condition on permissions for new dwellings.

- f. Delete the second sentence in the seventh paragraph of Policy C3 which sets a minimum internal floor area for new dwellings of 50m²; modify the first sentence in that paragraph to read: 'Subject to an assessment of the effect on the viability of a development proposal, all schemes, for any number of units, including on linked sites, should provide that the net internal floor area of all dwellings, when taken in aggregate, does not exceed an average of 100m² per dwelling unless it can be demonstrated that larger dwellings would better meet identified local housing needs or assist in providing housing suitable for families.'**
- g. Add the following sentence to the eighth paragraph of Policy C3: Planning permission for the extension of such dwellings will be permitted provided that the extended dwelling would continue to meet local housing needs as identified in the latest local housing needs survey.**
- h. Delete the ninth (final) paragraph of Policy C3 relating to self-build.**

4.84 *Policy C4. Live-work.* In response to the WSLP representation and the five points I have raised under my Question 18, the SPC have requested the deletion of this policy. However, I have still to consider whether it meets the basic conditions, as submitted.

4.85 As I touched upon on several occasions Planning Practice Guidance indicates that the policies in Neighbourhood Plans should provide a clear and unambiguous basis for making decisions on planning applications. The Neighbourhood Plan policy needs to be read alongside the Local Plan and provide a locally-distinctive dimension. SNP Policy C4 is written in a highly prescriptive form without any justification for the details within it. There is no clear basis for the majority of the floorspace to be used for business purposes, especially of the unit is to be treated otherwise as if it were a dwelling for the purposes of Policies C2 and C3; nor is there a justification for the restrictions on the nature of the business and on occupancy. Taken in the round, the policy is not justified by an analysis of local circumstances and militates against the encouragement given in the NPPF for flexible working practices.

4.86 I conclude that the policy fails to have adequate regard for national policy and is inadequately justified in its detail. For these reasons, the policy should be deleted for the plan to meet the basic conditions. The matter is covered by WSLP policy, EC6.

Recommendation 15

Delete Policy C4.

4.87 *Policy C5. Residential Institutions for Older and Disabled People.* This is one of the polices for which the repeated criteria would, for clarity, be replaced by cross-reference to Policy O1. Also, for clarity, reference should be made to Use Class C2.

Recommendation 16

In Policy C5 insert '(Use Class C2)' after 'residential institutions' in line 1 of the policy; delete the criteria and state 'subject to the provisions of Policy O1'.

4.88 *Policies C6-C8. School and village hall.* Policies C6 and C7 are very similar in form and they act as something of an introductory background to Policy C8 which relates to both the school and the village hall. The SPC has agreed that, for clarity, Policies C6 and C7 could be merged with C8. I agree that to be necessary for that purpose. The SPC have provided me with a detailed explanation of the community's aspirations for the two buildings and the alternatives which present themselves.

4.89 The WSDC have suggested that Policies C6 and C7 are no more than statements of community aspiration, better included in the supporting text. I consider that, in so far as they provide an indication that proposals for alteration or expansion of the two buildings on their existing sites will be supported, i.e. permission for such development will be granted, they do have a proper policy function which is best set out as the first part of a revised Policy C8. The re-location of either community facility and the re-use of the existing site(s) may then be covered by the second part of policy C8. The policy intention needs to be clear.

4.90 In the event of re-location it is important that the whole scheme remains a viable proposition. In that regard it is helpful to know that land on the Beacon Field would be gifted for the purpose of relocation of the village hall and/or the school although the acceptability of that in planning terms is apparent from Policy C10. Nevertheless, as submitted, the third bullet point in Policy C8 seeks a somewhat open-ended contribution from the enabling development to meeting 'other facilities the community needs'. That may not meet the requirements for planning obligations as set out in paragraph 204 of the NPPF. The car park has now been permitted. That paragraph should be deleted.

4.91 As explained by the SPC the final bullet point in Policy C8 envisages an alternative scenario in which the relocation is funded by grant aid rather than by enabling development of the existing site(s). It appears to be a somewhat hypothetical position. I understand that flexibility is required but any redevelopment could not reasonably be required to bring greater community benefit than the existing uses. That reference should be deleted. Otherwise the main part of Policy C8 meets the basic conditions.

Recommendation 17

a. Delete Policies C6 and C7 but include the following text as a new first paragraph in Policy C8: The alteration and/or extension of the existing school and village hall buildings or the construction of new buildings on the existing site(s) will be permitted.

b. Delete the third bullet point criterion and in the fourth criterion delete the words 'or greater use to the community'

4.92 *Policy C9. Existing Public Open Spaces.* Although it may not be an ideal situation to have policies in a neighbourhood plan which do little more than re-state, in slightly different words, policies which are included in the Local Plan. However, there is nothing in national policy or guidance which states that there cannot be such overlap. The guidance on repetition applies to local plans. I accept that a neighbourhood plan is addressed to a somewhat different audience.

4.93 This policy closely reflects the NPPF paragraph 74. It would have been an alternative approach to have simply listed the sites to which WSLP Policy CF1 applies, but that is not what has been done. The policy is clear and provides a reasonable basis for decision-taking. It meets the basic conditions.

4.94 *Policy C10. The Beacon Field.* This policy is somewhat unusual in that it relates to land which is already owned by the Parish Council which will, therefore, have full control over future uses. As the landowner, it could be said that there is a conflict of interest in the Parish Council stating the types of development to be permitted on the land. However, this is a land-use policy and nothing is proposed which would not be in the community interest. Certain aspects of the policy as expressed in the submitted plan are somewhat vague and imprecise and there is a significant degree of repetition. On the other hand, the alternative version provided in response to my Question 22 represents a significant improvement which I recommend. I have also been provided with a replacement supporting text. For completeness I recommend that also.

Recommendation 18

Delete Policy C10 and replace it by the following introductory text and policy statement:-

Text:

The Beacon Field is divided, as shown on the Stogumber Features Map, into two parts:

- **The lower part, currently public open space, and intended for the future development of community facilities. Full planning permission has already been granted for a permanent car-park.**
- **The upper part, including the Jubilee Copse and Community Orchard, currently and intended to remain, public open space or community horticulture such as allotments.**

Both parts can currently be used for occasional car-parking for large events, and it is intended that such use will continue into the future, albeit limited by any development and tree-planting that takes place.

Policy:

Permission for development on the lower part of the Beacon Field will be granted where the development is of buildings or facilities of benefit to the community, such as (but not limited to) a new village school or new village hall, subject to the criteria listed under Policy O1. Development should enable, and where appropriate, facilitate vehicular access to the upper part of the field and to the proposed new graveyard in the adjoining field. Permission for a building on the upper part of the field will not be granted except for purposes that directly improve the use of the land as public open space or community horticulture.

4.95 *Policy C11. Car Parking.* This is a policy including criteria which are recommended for inclusion in the over-arching policy O1 rather than by repetition in individual policies. The nature of the older parts of Stogumber which were not designed for the accommodation of cars clearly creates problems. It is only very recently that permission has been given for a car park on part of the Beacon Field, as mentioned in Policy C10, and it is not clear what the justification would be for further off-site parking to be financed through s106 contributions. For those to meet the requirements of paragraph 204 in the NPPF

there would need to be an identifiable proposal for an additional car park which appears not to be the case. The SPC also acknowledge that any requirement for additional parking could be to meet the needs arising from that development not to alleviate existing problems. A replacement policy has been suggested by the SPC which I recommend to meet the basic conditions.

Recommendation 19

Delete Policy C11 and replace it with the following policy:-

Development must include sufficient off-street car parking spaces to meet the demand generated by that particular development. Permission for additional car-parking spaces, beyond the minimum number required, will be granted subject to Policy O1.

4.96 *Policy C12. Essential Services.* There can be absolutely no doubt about the importance the village shop and post office has, along with the pub, as central community facilities. It is understandable, therefore, that the plan should seek to safeguard such facilities. However, as recognised in the plan these are private owned businesses and it is not possible, through planning policy, directly to prevent such establishments from closing their doors. If a business is no longer commercially viable then it would not be reasonable, or feasible, to expect a facility even of equal value to the community to be created in its stead.

4.97 There are representations against this policy from those associated with the village shop. The WSDC have rightly drawn attention to the potential for the policy to result in vacant and deteriorating buildings and that it is contrary to national policy to place an undue burden on development by overly restrictive requirements. For these reasons I consider that the policy has failed to have adequate regard for national policy. Deletion of the policy would mean that the equivalent WSLP Policy SC6 would apply.

Recommendation 20

Delete Policy C12.

4.98 *Policy C13. Church.* As stated in the PPG, policies in the neighbourhood plan can only relate to land-use matters and provide a basis for decision making on applications for planning permission submitted under the Town and Country Planning Acts. That does not cover anything which requires listed building consent, for example. As submitted, this plan policy could be read to suggest that the plan might have influence on decisions taken under other legislation which cannot be the case. The alternative wording put forward by the SPC would still refer to 'consent' and in relation to changes to 'fabric and furnishings'. Changes to internal furnishings would never require planning permission and I find it difficult to envisage a situation in which alterations to the 'fabric' would do so. The suggested wording might also be interpreted as meaning that permission should not be given if the change did not support community use of the building. I regard this 'policy' as an aspiration to seek to widen the scope for community use of the church which, laudable though it may be, is not a planning matter. The policy should be deleted from the statutory plan.

Recommendation 21

Delete Policy C13.

4.99 *Policies EC1 Local Economy and EC3 Business Space.* Policy EC1 gives general support to economic development wherever it may be, subject to site-specific criteria which the SPC have accepted are better covered in the overarching policy O1. However, Policy EC1 also applies to 'premises for business use' and Policy EC3 to 'additional business space' but the latter policy cross-references to locational Policy EN2 providing what amounts to a sequential approach to the location subject to the same site-specific criteria.

4.100 It is highly likely that any additional business space would be within 'premises for business use'. The policies are, therefore, dealing with one and the same thing. The inclusion of two policies in the plan with slightly different provisions is likely to lead to uncertainty as to how a decision maker should react to a proposal, especially for a new business development in a location which does not accord with Policy EN2 but for which there is not judged to be a 'specific business reason for a different sort of location'. The plan therefore lacks clarity and is not in accord with planning practice guidance.

4.101 To achieve clarity and remove the ambiguity the policies are best merged retaining the general support for economic development but clearly stating the sequential preference.

4.102 The text prior to Policy EC3 refers to some of the freedoms available for certain changes of use and states that permitted development rights should be restricted by condition. Even though that is not in a policy as such it reads as policy and, contrary to paragraph 200 of the NPPF, there is no clear justification for it. The sentence will need to be deleted. The fourth criterion in Policy EC3 relates to 'new retail space' and it would appear from the introduction to the policy that it is intended to apply to both Class A and Class B uses³⁴. The WSDC comment is that they are not aware of any demand for new retail space. Be that as it may, care is needed that planning policy is not seen as an attempt to protect an existing retail outlet from fair and open competition. Long-standing national policy³⁵ is expressed in terms of the effect on the 'vitality and viability' of the centre, which may include district or village centres. It should be clarified that a retail outlet falls within Use Class A1 and that policy does not apply to other Class A uses.

Recommendation 22

Delete policies EC1 and EC3 and insert a new policy EC1 to read as follows:-

Proposals for economic development, including the development of additional business space, in a location which accords with the locational priorities stated in Policy EN2, will be approved provided that the criteria in Policy O1 are met. Business (Class B) development may also be permitted in other locations where it can be demonstrated that there are specific business reasons why a different sort of location is required.

New retail (Class A1) development will be permitted provided that it would not, by reason of its location or scale, have a harmful effect on the vitality and viability of the village centre.

³⁴ As defined in The Town and Country Planning (Use Classes) Order 1987

³⁵ NPPF, paragraph 26

4.103 *Policy EC2. Visitor accommodation.* The SPC have provided a thorough response to my question 26 and I accept that full regard has been had to paragraph 28 of the NPPF in seeking to positively encourage the development of additional visitor accommodation in what is, undeniably, a most attractive rural area on the fringe of the Exmoor National Park. I am sure that there is considerable potential for this form of development.

4.104 Moving the repetitive criteria to the over-arching policy, O1, would do much to clarify the main policy message of this policy with its three parts. The focus is then on the three sub-policies. On Guest Houses and B&B's, I am sure that the SPC are aware that planning permission is only required if there is deemed to be a material change of use of the premises, which is rarely the case. On the location of new-build self-catering units, although the locational preference may be in accordance with policy EN2 there is only a limited land resource close to Stogumber meeting the modified policy requirements and WSLP Policy EC9 suggests somewhat greater flexibility.

4.105 Although I understand the thinking behind the 80m² average floor space 'cap' I do not accept that the case put forward in the SPC response constitutes the 'proportionate and robust' evidence required to justify such a stance. Self-catering holiday accommodation is required for larger than average families or by families sharing. There would be safeguards, including a condition, to ensure that self-catering units are not permanently occupied without planning permission being obtained. Should an application be made for removal of the condition then the importance to the local economy of the retention of the accommodation in holiday use would be a material consideration for the local planning authority.

4.106 Turning to the condition, I agree that any permission for self-catering accommodation should be subject to a condition which would prevent permanent residential occupation. This is put as preventing occupation by any one person for more than 28 days in any (one) calendar year. Again, although the principle is correct the detail has not been adequately justified. For example, it prevents the same person (or group) occupying a unit on separate occasions of 28 days during the year, falling well short of permanent occupancy. The policy is overly-prescriptive without justification in proportion to the degree of prescription. It would meet the aims of the policy to express it in more general terms leaving

the LPA to word an appropriate condition which would meet the NPPF paragraph 206 tests. I am not convinced the condition suggested in the plan does that.

4.107 The SPC have provided a good reason for restriction of 'small-scale camping or 'glamping' sites to five units. Although I think it unlikely that the small wooden chalets used for 'glamping' would become permanent the suggested condition would be a reasonable one.

Recommendation 23

Delete Policy EC2 and replace it with the following modified policy:-

Proposals for additional visitor accommodation will be approved provided that the provisions of Policy O1 are met and subject to the following additional requirements:-

- (i) for Guest Houses, and B&Bs, that the proposals are for the conversion or re-use of an existing building;**
- (ii) for self-catering units, that the proposals are either for the conversion or re-use of an existing building or, if new-build, that the location is in accordance with the priorities in Policy EN2 and, in either case, that the permission is subject to a condition restricting the use to that of short-term occupation as visitor accommodation;**
- (iii) for the use of land as a small-scale camping or 'glamping' site, that the proposals are for no more than five separate units of temporary accommodation of a modest nature plus commensurate communal facilities and that any permission is subject to conditions restricting the use of the site to that of visitor accommodation and requiring the removal of the units of temporary accommodation should the use cease.**

4.108 *Policy EC4. Agricultural Land.* The policy itself does not seek to distinguish between different grades of agricultural land or split Grade 3a, which is included by national and local plan policy within the definition of the 'best and most versatile' land. However, the policy could only be implemented within that context and does not explicitly contradict it. The approach taken meets the basic conditions.

4.109 *Policy EC5. Agricultural Development.* This is one of the policies with standard criteria which would be covered by the recommended modification to Policy O1 and a modification is required for consistency. Otherwise I consider that the policy meets the basic conditions. The final sentence in the text under 'Agricultural Diversification' referring to the application of a condition or s106 obligation although indicating policy is not precise. It may remain as an aspiration but I am not convinced that such an approach would always meet the NPPF tests in paragraph 204 or 206 as appropriate.

Recommendation 24

Delete the criteria in Policy EC5 and insert a cross-reference to the criteria in Policy O1.

4.110 *Policy EC6. Re-use of agricultural buildings.* As for policy EC5 in respect of the cross-reference to Policy O1. Although national policy gives support to the conversion of agricultural buildings to other uses without distinction by type I accept that there is also a general encouragement given to the development of rural businesses and that modern steel-framed agricultural buildings would be most suitable for such use. Any environmental concerns relating to commercial uses on sites which fall within the locations mentioned in Policy EN2 are covered by the Policy O1 criteria.

Recommendation 25

Delete the criteria in Policy EC6 and insert a cross-reference to the criteria in Policy O1.

4.111 *Policy EC7. Dwellings on new holdings.* In response to my question 30 the SPC have put forward a clear justification for the approach taken in this policy subject to an adjustment to the wording for the necessary clarification of the terms of policy implementation. I recommend those amendments.

Recommendation 26

Modify the second sentence in Policy EC7 to read as follows:-

Where the viability of holding business would be significantly compromised without the ability to live on site, but such an essential need is not yet proven, a temporary (3 year) consent may be granted for a dwelling designed to be of low environmental impact in construction and use, and which is readily capable of removal.

4.112 *Appendices*. I raised a query about Appendix 2 only because the purpose of Census data appears to be primarily to provide an evidential basis for some of the plan policies. Once a plan is 'made' such material is not of direct relevance and might be omitted. However, I do not suggest that its inclusion would mean, in any sense, that the plan failed to meet the basic conditions. The same applies to the other appendices and their order which is entirely a matter for the Parish Council, as the Qualifying Body.

The correction of errors

4.113 I am empowered to recommend the correction of errors. As I indicate at the start of this report, I include in this category the amendments to the plan text which will be required to ensure that the plan is up-to-date at the time it is 'made'. There will also be a number of consequential amendments required to the text in order to take account of the modifications to policies I have recommended, in some cases the deletion of whole policies. I make a general recommendation to cover these aspects.

4.114 There is but one point, raised in the representations by the WSDC, which I have not dealt with elsewhere and that is the statement in the Introduction that development is to be spread evenly over the 10 years of the plan. Presumably that is a reference to housing development. That may be an aspiration but there is no basis in the plan policies nor is there any practical mechanism to achieve that. It is analogous to the statement under 'Housing Delivery' on page 17 of the plan that the plan 'encourages and even rate of development'. Even as submitted, the first paragraph in Policy C3 does not say that. I treat these statement as an errors because they are not a correct interpretation of the plan policies, although it is also the case that it would be contrary to Government policy to seek to control the rate of development without very specific justification.

Recommendation 27

To ensure that the plan is up-to-date at the time it is made, make any amendments to the plan text which are consequential to the recommended modifications to plan policies. Also, remove references in the Introduction, page 1, and under the heading 'Housing Delivery' on page 17, to (housing) development being spread evenly over the plan period.

Section 5 - Formal conclusion and overall recommendations including consideration of the referendum area

Formal Conclusion

5.01 I conclude that the draft plan, subject to the modifications recommended in this report, meets the basic conditions as set out in Schedule 4B to the Town and Country Act 1990 (as amended), does not breach and is otherwise compatible with EU obligations and is compatible with Convention Rights. Modifications also need to be made by way of the correction of errors to ensure that the plan is up-to-date.

Overall Recommendation A

I recommend that the modifications specified in sections 2 and 4 of this report be made to the draft Stogumber Neighbourhood Plan and that the draft plan as modified be submitted to a referendum.

The referendum area

5.02 As I have recommended that the draft plan as modified be submitted to a referendum I am also required under s10(5)(a) of Schedule 4B to the Town and Country Planning Act 1990 to recommend whether the area for the referendum should extend beyond the neighbourhood area.

5.03 There have been no representations seeking an extension of the referendum area. As the plan is concerned only with the future development within the parish of Stogumber and there are no cross-boundary issues of significance for residents or businesses in adjoining parishes, I find there to be no need to extend the referendum area beyond the designated neighbourhood area.

Overall Recommendation B

The area for the referendum should not extend beyond the neighbourhood area to which the plan relates.

Signed:

John R Mattocks

JOHN R MATTOCKS BSc DipTP MRTPI FRGS

30 May 2017

APPENDIX 1.

Abbreviations used in this report.

'the Act'	The Town and Country Planning Act 1990, as amended
EU	European Union
HRA	Habitats Regulations Assessment
LHA	Local Housing Authority
LPA	Local Planning Authority
NP	Neighbourhood Plan (generic term)
NPPF	The National Planning Policy Framework ('the Framework')
PD	Permitted Development
PPG	(national) Planning Practice Guidance
SEA	Strategic Environmental Assessment
SNP	Stogumber Neighbourhood Plan ('the Plan')
SPC	Stogumber Parish Council ('the PC')
WSDC	West Somerset District Council
WSLP	West Somerset Local Plan