

# **MARLBOROUGH AREA NEIGHBOURHOOD PLAN 2021 - 2036**

**The Report of the Independent Examiner to Wiltshire Council on the  
Marlborough Area Neighbourhood Plan**

**Andrew Matheson MSc MPA DipTP MRTPI FCiH  
Independent Examiner  
10<sup>th</sup> May 2022**

## Summary

I was appointed by Wiltshire Council, in agreement with Marlborough Town and Mildenhall and Savernake Parish Councils, in October 2021 to undertake the Independent Examination of the Marlborough Area Neighbourhood Plan.

The Examination has been undertaken by written representations. I visited the Neighbourhood Area on 18<sup>th</sup> March 2022 after resolving my initial enquiries of the Qualifying Bodies.

The Area Neighbourhood Plan proposes a local range of policies and seeks to bring forward positive and sustainable development in the Marlborough Neighbourhood Area. There is an evident focus on safeguarding the very distinctive, local character of the area whilst accommodating future change and growth.

The Plan has been underpinned by extensive community support and engagement. The social, environmental and economic aspects of the issues identified have been brought together into a coherent plan which adds appropriate local detail to sit alongside the Wiltshire Core Strategy (adopted January 2015).

Subject to a series of recommended modifications set out in this Report, some of more significance than others, I have concluded that the Marlborough Area Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.

I recommend that the referendum should be held within the Neighbourhood Area.

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## **Introduction**

This report sets out the findings of the Independent Examination of the Marlborough Area Neighbourhood Plan 2021 - 2036. The Plan was submitted to Wiltshire Council by Marlborough Town and Mildenhall and Savernake Parish Councils in their capacity as the 'Qualifying Bodies' responsible for preparing the Neighbourhood Plan.

Neighbourhood Plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently incorporated within the National Planning Policy Framework (NPPF) in 2012 and this continues to be the principal element of national planning policy. A new NPPF was published in July 2021 and it is against the content of this NPPF that the Plan is examined. The changes between the 2019 and 2021 revisions of the NPPF have not been significant in the examination of Policies in this Plan.

This report assesses whether the Marlborough Area Neighbourhood Plan is legally compliant and meets the 'basic conditions' that such plans are required to meet. It also considers the content of the Plan and, where necessary, recommends modifications to its policies and supporting text. This report also provides a recommendation as to whether the Marlborough Area Neighbourhood Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome, the Marlborough Area Neighbourhood Plan would then be used in the process of determining planning applications within the Plan boundary as an integral part of the wider Development Plan.

## **The Role of the Independent Examiner**

The Examiner's role is to ensure that any submitted Neighbourhood Plan meets the legislative and procedural requirements. I was appointed by Wiltshire Council, in agreement with Marlborough Town and Mildenhall and Savernake Parish Councils, to conduct the Examination of the Marlborough Area Neighbourhood Plan and to report my findings. I am independent of both Wiltshire Council and the Town and Parish Councils. I do not have any interest in any land that may be affected by the Plan.

I possess the appropriate qualifications and experience to undertake this role. I have over 40 years' experience in various local authorities and third sector bodies as well as with the professional body for planners in the United Kingdom. I am a Chartered Town Planner and a panel member for the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I am a Member of the Royal Town Planning Institute.

In my role as Independent Examiner I am required to recommend one of the following outcomes of the Examination:

- the Marlborough Area Neighbourhood Plan is submitted to a referendum; or
- the Marlborough Area Neighbourhood Plan should proceed to referendum as modified (based on my recommendations); or
- the Marlborough Area Neighbourhood Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.

As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. If recommending that the Neighbourhood Plan should go forward to referendum, I must then consider whether or not the referendum area should extend beyond the Neighbourhood Area to which the Plan relates.

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

- the policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004;
- the Neighbourhood Plan meets the requirements of Section 38B of the 2004 Act (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one Neighbourhood Area);
- the Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by Qualifying Bodies.

These are helpfully covered in the submitted Basic Conditions Statement and, subject to the contents of this Report, I can confirm that I am satisfied that each of the above points has been properly addressed and met.

In undertaking this Examination I have considered the following documents:

- Marlborough Area Neighbourhood Plan 2021 - 2036 as submitted
- Marlborough Area Neighbourhood Plan Basic Conditions Statement (August 2021)
- Marlborough Area Neighbourhood Plan Consultation Statement (June 2021)
- Sustainability Appraisal (SA) for the Marlborough Area Neighbourhood Plan (August 2021)
- Content at: <https://wiltshire-consult.objective.co.uk/kse/event/36476>
- Content at: [www.marlborough-tc.gov.uk/neighbourhood-plan](http://www.marlborough-tc.gov.uk/neighbourhood-plan)
- Representations made to the Regulation 16 public consultation on the Marlborough Area Neighbourhood Plan
- The Wiltshire Core Strategy (WCS) adopted in January 2015
- Saved policies in the former Kennet Local Plan 2011 (KLP), as set out in Appendix D of the WCS.
- Wiltshire Housing Site Allocations Plan (WHSAP), adopted 25 February 2020.
- The Wiltshire Local Plan Review
- National Planning Policy Framework (NPPF) (2021)
- Neighbourhood Planning Regulations (2012)
- Planning Practice Guidance (PPG) (March 2014 and subsequent updates)

I carried out an unaccompanied visit to the Neighbourhood Area on 18<sup>th</sup> March 2022. I looked at all the various sites and locations identified in the Plan document in their rural setting.

The legislation establishes that, as a general rule, Neighbourhood Plan examinations should be held without a public hearing, by written representations only. Having considered all the information before me, including the representations made to the submitted plan which I felt made their points with clarity, I was satisfied that the Marlborough Area Neighbourhood Plan could be examined without the need for a public hearing and I advised Wiltshire Council accordingly. The Qualifying Bodies and the Local Planning Authority have helpfully responded to my enquiries so that I may have a thorough understanding of the facts and thinking behind the Plan, and the correspondence is being shown on Wiltshire Council's Neighbourhood Planning website for the Marlborough Area Neighbourhood Plan.

### **Marlborough Neighbourhood Area**

A map showing the boundary of the Marlborough Neighbourhood Area has been provided within the Neighbourhood Plan. Further to an application made by Marlborough Town and Mildenhall and Savernake Parish Councils, Wiltshire Council approved the designation of the Neighbourhood Area on 18<sup>th</sup> November 2020. This satisfied the requirement in line with the

purposes of preparing a Neighbourhood Plan under section 61G(1) of the Town and Country Planning Act 1990 (as amended).

## **Consultation**

In accordance with the Neighbourhood Planning (General) Regulations 2012, the Qualifying Bodies have prepared a Consultation Statement to accompany the Plan.

The Planning Practice Guidance says:

“A qualifying body should be inclusive and open in the preparation of its Neighbourhood Plan [or Order] and ensure that the wider community:

- is kept fully informed of what is being proposed
- is able to make their views known throughout the process
- has opportunities to be actively involved in shaping the emerging Neighbourhood Plan [or Order]
- is made aware of how their views have informed the draft Neighbourhood Plan [or Order].” (Reference ID: 41-047-20140306)

The submitted Consultation Statement confirms that as long ago as 2015 the Parishes of Marlborough, Mildenhall, Preshute (who later withdrew) and Savernake agreed to work together towards the production of a Neighbourhood Plan, with a Steering Group formed in 2016. Across the Summer and Autumn of 2016 Open Day and Roadshow events were held across the Neighbourhood Area, publicised with 10,000 leaflets, to raise awareness and invite input into the scoping of the Plan. At the same time a dedicated website was set up to accompany these activities. Survey work was undertaken across 2017 and in July 2018 the Steering Group appointed a consultant to assist in taking the community feedback and evidence forward.

Following a ‘call for sites’ in November 2018/ January 2019 (sites for affordable housing, more car parking, improved health facilities, a replacement for Preshute School, recreation land and a new cemetery), in July/August 2019 drop-in exhibitions were held at Marlborough Town Hall, Manton Village Hall, Mildenhall Village Hall, and at Marlborough Area Board at which comments were invited and subsequently collated. At this juncture Preshute Parish withdrew, involving a re-designation of the Neighbourhood Area.

The official Regulation 14 six-week consultation period on the Pre-Submission Marlborough Area Neighbourhood Plan ran from 18<sup>th</sup> January 2021 until the 8<sup>th</sup> March 2021. Because of Covid restrictions at the time, consultation events had to be held via Zoom; two were held in January and February. A survey was also available online and shared widely via social media. Flyers were delivered to every household and a wide variety of identified ‘stakeholders’ were also contacted. Paper copies of the Plan were also available at the Town Council offices and in the library. Banners and posters were displayed on notice boards throughout the town and the consultation and exhibitions also promoted via Marlborough News and in an editorial in the Gazette & Herald and Town and Country magazine. The many responses to the consultation are shown in an attachment to the Consultation Statement with details of how these comments influenced the redrafting of the Plan prior to submission.

Accordingly, overall, I am satisfied that the consultation process accords with the requirements of the Regulations and the Practice Guidance and that, having regard to national policy and guidance, the Basic Conditions have been met. In reaching my own conclusions about the specifics of the content of the Plan I will later note points of agreement or disagreement with Regulation 16 representations, just as the Qualifying Bodies have already done for earlier consultations. That does not imply or suggest that the consultation has been inadequate, merely that a test against the Basic Conditions is being applied.

## **Representations Received**

Consultation on the submitted Plan, in accordance with Neighbourhood Planning Regulation 16, was undertaken by Wiltshire Council from Monday 20<sup>th</sup> September to Monday 8<sup>th</sup> November 2021. I have been passed the representations – 29 in total – which were generated by the consultation and which are included alongside the submitted Plan on Wiltshire Council's Neighbourhood Planning website. I agreed to receive a late submission from Natural England, received 19 November 2021 (shown as Comment ID:30 on the website) and I have made reference to their comments within this Report. I have not mentioned every representation individually but this is not because they have not been thoroughly read and considered in relation to my Examiner role, rather their detail may not add to the pressing of my related recommendations which must ensure that the Basic Conditions are met.

A significant 'theme' amongst representations from the community has been a concern about the decision to address the housing needs of the Neighbourhood Area 2026 – 2036 in advance of the firming up or adoption of the Wiltshire Local Plan Review now in preparation. Contrary to many assertions in representations, the Planning Guidance (Paragraph: 009 Reference ID: 41-009-20190509) is clear that Neighbourhood Plans "can be developed before or at the same time as the local planning authority is producing its local plan". However, a number of further expectations are noted in the Guidance and I will address those as I examine the policy content in detail below.

## **The Neighbourhood Plan**

Marlborough Town and Mildenhall and Savernake Parish Councils are to be congratulated on their extensive efforts to produce a Neighbourhood Plan for their area that will guide development activity over the period to 2036. I can see that a sustained effort has been put into developing a Plan around a vision that by 2036:

"The Marlborough Neighbourhood Plan Area has grown sustainably, carefully balancing its social, economic and environmental needs. The open character and special scenic beauty of the Area of Outstanding Natural Beauty has been preserved, and in some cases enhanced. Low income groups including young people have found more affordable homes and are finding job opportunities not far from home.

We have improved medical facilities and there is a wide range of community facilities. The town centre in Marlborough is now a place for residents and visitors of all ages. It has sustained its special retail-led mix of commercial uses and has a thriving daytime and evening economy, which has made it a strong asset to the overall Wiltshire visitor economy. The landscape and its easy accessibility together with the protection of the natural and historic environment afforded by new developments, have created net gains in biodiversity and, as a consequence, improved the health and wellbeing of those who live in or visit the Marlborough Neighbourhood Plan Area."

The Plan document is impressively presented with a combination of text, maps and policies that are, subject to the specific points that I make below, well laid out and helpful for the reader. The Plan has been kept to a manageable length by not overextending the potential subject matter and the coverage of that.

It is an expectation of Neighbourhood Plans that they should address the issues that are identified through community consultation, set within the context of higher-level planning policies. There is no prescribed content and no requirement that the robustness of proposals should be tested to the extent prescribed for Local Plans. Where there has been a failure by the Qualifying Bodies to address an issue in the round, leading to an inadequate statement of policy, it is part of my role wherever possible to see that the community's intent is sustained in an appropriately modified wording for the policy. It is evident that the community

has made positive use of “direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area” (Planning Practice Guidance Reference ID: 41-001-20140306).

Individually, I can see that the Policies address legitimate matters for a Neighbourhood Plan as identified with the community. I will later look at the Policies in turn so as to ensure that the Basic Conditions are met, which include an obligation to be in general conformity with Core Strategy strategic policies. Having considered all the evidence and representations submitted as part of the Examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It works from a positive vision for the future of the Neighbourhood Area and promotes policies that are, subject to amendment to variable degrees, proportionate and sustainable. The Plan sets out the community’s priorities whilst seeking to identify and safeguard the Marlborough area’s distinctive features and character. The plan-making had to find ways to reconcile the external challenges that are perceived as likely to affect the area with the positive vision agreed with the community. All such difficult tasks were approached with transparency, with input as required and support from Wiltshire Council.

However, in the writing up of the work into the Plan document, it is sometimes the case that the phraseology is imprecise, not helpful, or it falls short in justifying aspects of the selected policy. This is not uncommon in a community-prepared planning document and something that can readily be addressed in most instances. Accordingly, I have been obliged to recommend modifications so as to ensure both clarity and meeting of the ‘Basic Conditions’. In particular, Plan policies as submitted may not meet the obligation to “contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals” (NPPF para 16). I bring this particular reference to the fore because it will be evident as I examine the policies individually and consider whether they meet or can meet the ‘Basic Conditions’.

## **Basic Conditions**

The Independent Examiner is required to consider whether a Neighbourhood Plan meets the “Basic Conditions”, as set out in law following the Localism Act 2011; in December 2018 a fifth Basic Condition was added relating to the Conservation of Habitats and Species Regulations 2017. In order to meet the Basic Conditions, the Plan must:

- have regard to national policies and advice contained in guidance issued by the Secretary of State;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the Plan for the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations;
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(d).

The submitted Basic Conditions Statement has very helpfully set out to address the issues in relation to these requirements in the same order as above and has tabulated the relationship between the policy content of the Plan and its higher tier equivalents. I note that the local strategic policies are set out in the Wiltshire Core Strategy adopted in 2015. From the accompanying Strategic Environmental Assessment and Habitats Regulations Assessment, I am satisfied that, after appropriate modification, the making of the Plan will not breach the Basic Condition relating to the Habitats and Species Regulations 2017.

I have examined and will below consider the Neighbourhood Plan against all of the Basic Conditions above, utilising the supporting material provided in the Basic Conditions Statement and other available evidence as appropriate.

## **The Plan in Detail**

I will address the aspects of the Area Neighbourhood Plan content that are relevant to the Examination in the same sequence as the Plan. Recommendations are identified with a bold heading and italics, and I have brought them together as a list at the end of the Report.

### **Front cover**

A Neighbourhood Plan must specify the period during which it is to have effect. I note that there is a prominent reference to the Plan period 2021 – 2036 on the front cover. The references to “Submission Plan” can now be removed.

### **Guide to Reading this Plan**

This is a very helpful introductory section.

### **Contents**

The content listing will need to be reviewed in the light of my Recommendations below.

### **Foreword**

No comment.

### **List of Policies**

I note some discrepancies between the titles of Policies here and those used in the body of the Plan document. The listing will need to be reviewed in the light of my Recommendations below.

## **1. Introduction & Background**

### **Figure 1**

The Neighbourhood Plan is required to include a map of the designated “Neighbourhood Area”. I note that Plan A provides the required detail, although the title should say ‘Neighbourhood Area’ rather than “Neighbourhood Plan Area”.

Similarly, paragraph 5.1 does not use the actual terminology of the Basic Conditions; “consistent with” is not the wording used in relation to either national policy or the Core Strategy.

### **‘Planning for the Future’ White Paper**

It is apparent that the White Paper will have no bearing on the content or Examination of the Marlborough Neighbourhood Plan.

### **Sustainability Appraisal**

I note that a Strategic Environmental Assessment (SEA) within the context of a Sustainability Appraisal (SA) and a Habitats Regulations Assessment (HRA) have been undertaken and copies provided alongside the Submission Plan. The HRA screening exercise concluded that the draft Plan will not trigger the requirement for appropriate assessment (under The Conservation of Habitats and Species Regulations 2017 (amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019)). I concur with Wiltshire Council that the SA “approach is welcomed as it maximises the draft Plan’s contribution to sustainable development, thereby seeking to achieve the Basic Condition of contributing to sustainable development”. However, Natural England in their representation commented: “We advise that the SA is flawed and consequently the allocation is not justified. Specifically, looking at the Table 4.6 of the ‘Revised alternatives appraisal findings’ Natural England does not agree with the determination for both option D and option E that there would be ‘no significant effect’ on biodiversity. The justification on page 117 makes no reference to potential impacts on bats. We advise that there would be likely significant effects on the

significant bat population using Marlborough Railway Tunnel as discussed earlier in this response.” The Qualifying Bodies have responded: “AECOM has been happy to reaffirm [its previous advice] in response the examiner’s questions and the challenges made by WC, Natural England and Historic England” and “the disused railway and priority habitat in the corner of the site are not designated, and as a result, [AECOM] could not conclude there would be significant effects once mitigation has been taken into account”.

Historic England and the Environment Agency have also made comments about the extent to which the SA/SEA has been attentive to matters of their respective concern. It is unfortunate that the document is not more explicit about its attention to matters raised by the statutory consultation bodies. I also note some other shortcomings in the final report, such as it acknowledges a mitigation that probably could not and actually does not appear in the Submission Plan (“requiring development proposals to make a financial contribution to the Marlborough Area Carbon Sink Fund”, page x) and another that is probably misrepresented as “incentivising” (“delivering a step change in the energy performance of all new developments in the MANP area, notably incentivising the Passivhaus standard”, twice mentioned p x). However, the overall approach and nature of the conclusions and recommendations are, in my judgement, not significantly compromised by the matters noted here. The Report does what it says it sets out to do: “assess Neighbourhood Plans against a set of sustainability objectives developed in consultation with interested parties” (p i). It provides, in as an objective way as possible, an appraisal of identifiable harms and how their worst effects might be addressed. What it does not do is remove from the plan-maker the obligation to judge when identified mitigations are appropriate to the scale of the harms. This obligation was recognised in relation to the decision to exclude the Elcot Lane site from further consideration because of its assessed social impact. Other judgements may be more complex.

### **Recommendation 1:**

*1.1 On the front cover, and in any other locations, remove references to “Submission Plan”.*

*1.2 Under the headings “Contents” and “List of Policies” review the content for accuracy and in the light of my Recommendations below.*

*1.3 Under the heading “1. Introduction & Background”:*

*1.3.1 Amend the title of Plan A to read ‘Designated Neighbourhood Area’.*

*1.3.2 Amend the first two bullet points of paragraph 1.5 to:*

- Does the Plan have regard to national policy and guidance?*
- Is the Plan in general conformity with the Wiltshire Core Strategy?*

*1.3.3 Remove paragraphs 1.7 & 1.8 referencing the ‘Planning for the Future’ White Paper; renumber subsequent paragraphs accordingly.*

*1.4 Under the sub-heading “Sustainability Appraisal (including Strategic Environmental Assessment)”:*

*1.4.1 In the second sentence of paragraph 1.12 replace “has” with ‘have’.*

*1.4.2 In the second sentence of paragraph 1.14 replace “Environmental” with ‘Environment’.*

## **2. The Neighbourhood Plan Area**

I expressed to the Qualifying Bodies a concern that, whilst this section is designed largely to be a descriptive summary, where the content breaks into commentary it may be vital for source referencing to be provided. In the absence of input from the Qualifying Bodies I have selected the items for which an authoritative source is needed.

## **Recommendation 2:**

Under the heading “The Neighbourhood Plan Area”:

2.1 In paragraph 2.12 delete the unsourced “and is currently oversubscribed”.

2.2 In paragraph 2.18 delete as irrelevant to the Plan content: “The service from Bedwyn requires a joined-up transport infrastructure and timetables for both rail and bus services as the current provisions are not meeting local needs”.

2.3 In paragraph 2.19 after “at peak times there are parking shortages” add ‘(Marlborough Neighbourhood Plan Car Parking Study, 2017)’.

2.4 In paragraph 2.24 between “There is a local perception” and “that the imbalance of local housing stock” add ‘, apparent from public consultation on this Plan,’.

2.5 In paragraph 2.24 after “as Wiltshire Council’s Core Strategy noted” add ‘for Wiltshire (para 2.13 p19)’.

2.6 In paragraph 2.25 replace “The average house price in 2015 in Marlborough was £318,450. This was considerably higher than the Wiltshire average of £255,060 and was highest of Wiltshire’s 20 community areas” with the update provided by the Qualifying Body: ‘The average house price in Marlborough is between 40% and 50% higher than the average property price in Wiltshire as a whole (Source: Zoopla, 5 May 2021), the breakdown by type of house is: Terraced +46%, Semi-detached +43%, Detached +52%.’

2.7 In paragraph 2.25 provide a source reference for each element of “The present population is estimated to be around 9,200 following inward migration as a result of recent completed housing developments between 2011 and the present” or delete.

## **3. Planning Policy Context**

### **National Planning Policy**

Since the Neighbourhood Plan was submitted a new version of the NPPF has been published and it is against this that my Examination must be conducted. I do not see any conflicts arising from the new content of the NPPF but I will, as part of this Examination, identify corrections needed to bring the Plan references into line with the 2021 NPPF (helped by some of the comments within representations).

### **Strategic Planning Policy**

Given that the Neighbourhood Plan is delivering new allocations of housing land in advance of the Local Plan Review, it is important that this section provides a clear housing requirement context and that subsequent content is evidently consistent with it. The context provided by the NPPF (paragraph 11) is that “strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas, unless: i. the application of policies in this Framework that protect areas [that include Areas of Outstanding Natural Beauty (AONB)] or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area”.

Planning Guidance (Paragraph: 009 Reference ID: 41-009-20190509) is clear that Neighbourhood Plans “can be developed before or at the same time as the local planning authority is producing its local plan”. However, a number of further expectations are then noted:

“Although a draft neighbourhood plan or Order is not tested against the policies in an emerging local plan the reasoning and evidence informing the local plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan

is tested. For example, up-to-date housing need evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development” ..... “The local planning authority should work with the qualifying body so that complementary neighbourhood and local plan policies are produced. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging local plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.” In other words, the Local Plan can trump the Neighbourhood Plan if there are unresolved differences. “Strategic policies should set out a housing requirement figure for designated neighbourhood areas from their overall housing requirement .... Where this is not possible the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body, which will need to be tested at the neighbourhood plan examination.” Paragraph: 101 Reference ID: 41-101-20190509 of the Guidance adds: “The National Planning Policy Framework expects most strategic policy-making authorities to set housing requirement figures for designated neighbourhood areas as part of their strategic policies. While there is no set method for doing this, the general policy making process already undertaken by local authorities can continue to be used to direct development requirements and balance needs and protections by taking into consideration relevant policies such as the spatial strategy, evidence such as the Housing and economic land availability assessment, and the characteristics of the neighbourhood area, including its population and role in providing services. In setting requirements for housing in designated neighbourhood areas, plan-making authorities should consider the areas or assets of particular importance (as set out in paragraph 11, footnote 6), which may restrict the scale, type or distribution of development in a neighbourhood plan area.” I should further note here: “Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need.” (Planning Guidance Paragraph: 040 Reference ID: 41-040-20160211).

Having regard to the Guidance, I sought further clarity from the Qualifying Bodies and the local authority as to the “indicative figure” for the housing requirement for the Plan since there was a lack of clarity in paragraphs 3.9 and 3.10 of the Plan, and consequently a lack of clarity about the relationship between the site allocations to be made and the indicative requirement which they were to meet. In its explanatory note dated 31<sup>st</sup> January the local authority confirmed: “The draft Plan acknowledges that the allocation of a minimum of 50 dwellings would ensure it aligns with the Local Plan Review preferred emerging spatial strategy, in meeting its objective to ensure Marlborough appropriately contributes towards meeting the forecast scale of housing need in the Housing Market Area. The Qualifying Body is however seeking to deliver a higher quantum of residential development to deliver the affordable homes their work has indicated are required as a priority for the settlement with its own evidence base, thus seeking to demonstrate there are exceptional circumstances for further ‘major development’ within the AONB that is within the public interest. It is recognised the Qualifying Body has been asked to provide clarification on certain aspects of its evidence base, but Wiltshire Council as Local Planning Authority would like to clarify that based on the emerging spatial strategy there is no strategic necessity for 245 open market dwellings over the period of the draft Plan in order to meet the assessed need of the Housing Market Area. Assessed need would be met by a contribution of a minimum of 50 dwellings; the preferred focus for growth being Royal Wotton Bassett.” This therefore needs to be at the heart of the Strategic Housing section.

I note that there is a reference within the section to the Wiltshire Housing Site Allocations Plan 2020 but there is no acknowledgement of the content that indicates that the “Indicative Housing Requirement to 2026” for Marlborough has already been exceeded by 3.1%. In fact,

the latest monitoring report (April 2022) indicates that new construction and consents have now pushed the percentage to 9.2%. These figures help to establish that overall supply is good but, the Qualifying Bodies are suggesting that this may mask a far less satisfactory position with the supply of affordable homes. The Qualifying Bodies have commented, with input from their consultants: “The 2020 study estimate of affordable housing requirement for Marlborough is higher than that for the area which was proposed by WC. The exact process by which WC arrived at its estimate of affordable provision for the Marlborough area is not set out but the figure probably takes into account WC’s view of land supply and environmental constraints (an approach which .... is not relevant when assessing objective overall affordable housing need). WC did not disaggregate affordable need to produce a Marlborough figure, but the implication of its approach is that any affordable need arising in Marlborough in excess of what can be met locally will be met elsewhere in the county.” There is therefore logic in the Qualifying Bodies pursuing issues of land supply and environmental constraints, and this ought also to be acknowledged as part of the strategic context.

### **Recommendation 3:**

*Under the heading “3. Planning Policy Context”:*

*3.1 Add to paragraph 3.6: ‘Within the Plan it is noted (Table 4.9) that the “Indicative Housing Requirement to 2026” for Marlborough has already been exceeded by 3.1%.’*

*3.2 Replace paragraph 3.10 with the following:*

*‘Wiltshire Council has subsequently confirmed that, based on the emerging spatial strategy, there is no strategic necessity for 245 open market dwellings over the period of the draft Plan to 2036 in order to meet the assessed need of the Housing Market Area. Assessed need would be met by a contribution of a minimum of 50 dwellings, the preferred focus for growth being Royal Wotton Bassett.’*

*3.3 Add to paragraph 3.12: ‘However, from research conducted specifically for the MANP (Affordable Housing Needs in Marlborough Area Neighbourhood Plan, Cobweb Consultation, June 2020 update), the estimate of affordable housing requirement for Marlborough is higher than that for the area which was proposed by WC. The exact process by which WC arrived at its estimate of affordable provision for the Marlborough area is not set out but the figure probably takes into account WC’s view of land supply and environmental constraints. The Neighbourhood Plan has therefore set out to maximise land supply for housing whilst seeking to respect the environmental constraints of the AONB. As national Planning Guidance confirms, “A neighbourhood plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy” (Reference ID: 41-044-20190509).’*

## **4. Community Views on Planning Issues**

I note the helpful cross-reference to the Consultation Statement, but there are no other matters for comment.

## **5. Vision, Objectives & Land Use Policies**

### **Policy MARL1: Delivering Affordable Homes in Marlborough**

I note the approach of the submitted Site Assessment Report with its narrative explanation of the whittling down selection process; since it would serve no purpose for the Examination, I have not looked at the sites rejected. In relation to the sites selected, the Report is not very convincing on the suitability of the final sites from the selection process because of its over-reliance on the, seemingly poorly evidenced, assertions of the “land interests”. As the representations from Natural England and Historic England – and the comments of the local authority too - say authoritatively, just asserting that the presence of bats can be dealt with and that listed buildings will be respected is insufficient. An objective assessment of what will

be involved and its deliverability is also required. Whilst I fully appreciate that the resources of the Qualifying Bodies are limited, the suggestion from them that “the plan maker is obliged to find those sites that will have the least effect that can be mitigated but that also offer the potential for positive effects, informed by the Sustainability Appraisal” assumes that this need only be done in comparative terms; but there should be an assessment also in absolute terms – it must be within the range of possibilities that any individual site offered as available is not acceptable in landscape terms. This is why the AONB suggest a “landscape led” approach, and whilst the Qualifying Bodies note that those words do not appear within the NPPF, it is perfectly reasonable and proper for the AONB to give guidance in this respect. Not least because “Great weight should be given to conserving and enhancing landscape and scenic beauty in .... Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues” (NPPF paragraph 176), a landscape assessment is likely to be needed to inform the search for sites. NPPF paragraph 177 does go on to indicate a very high bar for proposal to meet: “When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest”; that is a double test, “exceptional circumstances” and “where it can be demonstrated that the development is in the public interest”.

In addition to the absolute impact of proposals, there are also the cumulative impacts to consider. Development should not continue until a tipping point is reached and, say, a well-established bat population is dispersed. Similarly, whilst it is evident that a 50 dwelling development will have a comparatively smaller impact in traffic terms than a 200 dwelling development, the overall 250 dwellings may breach rather than merely compromise the road capacity of the affected parts of the network. Proposals cannot therefore be justified simply on the basis that they are smaller than or as well considered as what has gone before. I will pick up from these general points when considering below one site in particular.

#### **A. The Neighbourhood Plan allocates ....**

##### **Land Rear of Salisbury Road**

My assessment is that I am not presented with compelling evidence that the allocation of this site, in the terms set out, is justifiable in the face of the significant concerns expressed by expert statutory consultees. I believe that the required evidence would have to relate to a wider context than just the site itself. An appropriately evidenced allocation is vital because the NPPF (paragraph 11) says: “Plans and decisions should apply a presumption in favour of sustainable development .... For decision-taking this means: c) approving development proposals that accord with an up-to-date development plan without delay ....”. It is vital therefore that any allocation is thoroughly considered.

I note that this site is also amongst those being considered within the Local Plan Review, but I don't consider the acceptance of this site within its second-stage selection process as being of great consequence here. Within that continuing process, the sustainability credentials of the site have yet to be explored and the outcome from that will not, according to the published timescale, be available until later this year. Such evidence as is made available, therefore, must be assessed for the benefit of the Neighbourhood Plan.

Having visited the site and also viewed it from numerous locations, I fully understand and agree with the assessment by the AONB in their representation, that the proposed development of this site within its boundaries only makes sense on a map. In reality, as the AONB notes, “The site is very much detached in character and orientation. Its location in an upper valley away from the main settlement gives it a strong rural character and development of this would appear set out on a limb.” I also fully understand the Wiltshire Council comment: “The disused railway woodland provides the landscape and ecological framework and the treed skyline backdrop for the new development at Marlberg Grange and

needs to be retained for its important landscape function as well as its ecological green infrastructure value.” Although a man-made feature, the heavily wooded, disused railway embankment, even in the depths of winter, provides a complete visual barrier separating the newly developed east valley from the distinctly separate and rising valley floor to the west. Although the Qualifying Bodies note the visual impact on the valley of the St John’s School site, the escarpment edge to the north provides a reasonably natural boundary between the non-intensive school site and the rural valley. The loss of a corner site to housing would have significant impacts on the whole of that west valley. Those impacts need to be fully understood before not after land within the valley is allocated for housing; this could then provide the basis for comparisons with other directions that might better accommodate Marlborough growth. That is true even before the visual impact of the cutting through of the mature land embankment (and the alternative, if the valley is to be developed, of access from the west) is itself assessed.

I am advised by the Qualifying Bodies that “The reference in paragraphs 5.16 and 5.21 of the Site Assessment Report to the publication in the evidence base of detailed LVIA’s is an error from an earlier draft of the document. Although some of that evidence has been prepared by the land interests, it was agreed with AECOM that it was not necessary for its appraisal of the spatial options and sites as reasonable alternatives. Instead, the concept plans showing the parameters for development of the two sites were deemed sufficient for this purpose.” It is unfortunate that the value of an LVIA beyond the work on the Sustainability Appraisal was not appreciated.

The AONB has also commented: “Woodland planting aimed at hiding the development is not acceptable mitigation.” And they later added: “Mitigation measures are being used to justify the allocation which is not the right method to follow, mitigation should be used as a way to conserve and enhance a site and not to hide/screen it”. I would agree that landscape planting should be site specific, and should serve a positive environmental purpose.

I note that Wiltshire Council has made related points with which I agree: “It is considered that the urban development of the site will result in the permanent loss of the undeveloped rural landscape character to an unacceptable and unjustified level based on the evidence that currently support the draft Plan.”

I note that the Qualifying Bodies have suggested that “it cannot be disputed that the Salisbury Road site is well connected to the town centre for non-car trips and will enable more such trips from the surrounding area through better connectivity”. Having walked two possible routes to/from the town centre to the site I would question whether the topography would encourage many to walk or cycle; and as the “surrounding area” is countryside (the development to the east having its own connectivity) I cannot see connectivity being a significant factor to favour the site over others differently orientated to the centre.

On the matter of ecology, Natural England has commented in relation to the proposed Salisbury Road site allocation: “It is not consistent with NPPF para 174 d) [Planning policies should be] minimising impacts on and providing net gains for biodiversity. The site is in close proximity to a site (Marlborough Railway Tunnel) likely to be of national importance for bats. In particular it is likely that the tunnel supports numbers of hibernating bats that meet or exceed the threshold for designation as a Site of Special Scientific Interest (SSSI). I attach the latest roost survey by the Wiltshire bat group as evidence demonstrating the significance of this site to bat species.” Wiltshire Council has noted in this connection: “It should be noted that the roost at the disused tunnel site is probably the largest Natterer’s bat hibernation site in the UK”. I particularly agree with Natural England where it is noted: “the current proposal differs from the [one approved to the east of the railway embankment] in a number of crucial regards;

- i. it requires a breach of integrity of the railway line. It is unclear from the information provided whether such a breach (and associated illumination and disturbance) will affect the bats concerned.
- ii. bats may be using the proposed site in an entirely different way to how they used the developed site (before development).
- iii. this development will provide cumulative severance of the tunnel entrance from the wider countryside. In the absence of knowing how the bats use the surrounding landscape, and the importance of the tunnel site, significant impacts cannot be ruled out.
- iv. no evidence has been supplied as to the effectiveness of the measures implemented on the adjoining site.”

Wiltshire Council has commented: “It is considered that the Site Assessment Report does not adequately address the ecological constraints of this site and based on the current evidence base Wiltshire Council objects to the principle of the allocation of this site on ecology grounds, in addition to the landscape grounds”. I should also note that Policy 14 in the Neighbourhood Plan specifically includes for “improving local biodiversity through connecting habitats” and yet the development proposal provides for the severing of a mature green corridor. Existing corridor assets also need protection since they are already part of the ecological network, whether currently designated or not.

I note that, on behalf of the Qualifying Bodies, it has been argued: “the other statutory consultees have only a single organisational interest and are not required to make difficult policy trade-offs as plan makers”. However, these consultees are *statutory* consultees for a reason – their expertise – and a singularity of interest might be applied equally to the land interests. A balanced judgement between these interests to achieve sustainable development cannot exclude any of them. In relation to the Salisbury Road site, it must be my judgement that the available evidence indicates that the potential benefits from development do not outweigh the significant harms.

I should also reference the fact that other sites, that are similarly placed to serve Marlborough but may be outside the Neighbourhood Area, are being considered within the Local Plan Review; but that is beyond the scope of this Examination.

***Recommendation 4:***

*Delete the heading “Land Rear of Salisbury Road” and the related Policy content, including the map.*

**Land at Barton Dene**

I note that, on balance, the AONB are supportive of the allocation of this site and indicate that the boundary is well chosen: “A well designed scheme could ensure that it appears as a natural extension of Barton”. Similarly, Wiltshire Council comments suggest support subject to the resolution of specific issues regarding the Policy. It is evident that the housing proposed can help to meet a known housing requirement.

I note that the allocation of this site for housing has been tied to the safeguarding of part of the site that has potential for the relocation and/or expansion of the existing Kennet and Marlborough Doctor’s Surgery. Representations have commented: “The MANP proposal for a medical facility of unspecified size, with unspecified access and no parking or bus service [at Barton Dene] has no merit, justification or evidence”. The Qualifying Bodies have been surprised by a representation, on behalf of the NHS BaNES, Swindon and Wiltshire Clinical Commissioning Groups (CCG) and the KAMP Surgery, in view of “the work undertaken with them in preparing the Neighbourhood Plan”. The representation says: “to maintain good care and sufficient adequate capacity to the existing GP population this development is objected to, it is felt that this housing growth would put too much pressure on the GP service” and “The Barton Dene site referred to in section 6.9 of the NHP (as per Policy MARL1A) is not

the preferred workable location, therefore, an alternative will need to be explored and provisions made". The Qualifying Bodies responded to these comments: "Following a meeting with the surgery the SG discovered the comments were submitted by the CCG without the knowledge of the KAMP, and that their comments do not reflect the KAMPs position. The KAMP have confirmed their requirement for extra space for medical facilities in the town and that they do not object to the Barton Dene site being safeguarded as a suitable option for that purpose; they do not wish to comment on housing matters as this is not their remit. The land interest has confirmed that it remains happy for the policy to make provision for this use to encourage proposals to come forward until such a time that they are deemed undeliverable." On the face of it the Surgery expectation is already undeliverable because the CCG does not support the location, but since the land interest is content that the land be safeguarded, nothing is lost by retaining the option. The Qualifying Bodies had previously commented: "the Medical centre is not linked to the housing development at Barton Dene" but that is not apparent from the Policy requirements; therefore, Policy changes are needed to untangle the housing and Surgery elements. The local authority has commented: "It is suggested that the need to release the land safeguarded for a potential new medical centre could be informed by a future review of the neighbourhood plan" so that can provide for an end-stop to the safeguarding.

On other matters of Policy wording:

The AONB has commented "[The] Northern boundary has a high sensitivity, and this should be reflected in the finished building heights and boundary treatment." It is not evident that this latter comment has been respected within the draft layout included within the Plan and the related Policy criteria.

Wiltshire Council has commented: "There are some significant mature trees and areas of woodland within the site which should be retained and excluded from developable areas" and "The policy wording does not provide any detail or set out any requirements in relation to the access arrangements" and "The policy should recognise the public rights of way within and adjacent to the site with the aim of providing connections from the site to them."

Historic England has commented: "P22 of the [Basic Conditions] Statement further asserts that evidence (our underlining) indicates that only the development of Barton Dene is likely to generate potential impact on heritage assets and that this can be accommodated without causing harm. However, no additional evidence has been identified and the basis for this assertion therefore remains unclear."

Natural England has commented "In the absence of LVIA [Landscape Visual Impact Assessment] Natural England would not support development of any sites within the AONB".

I note that Core Policy 43 contains two separate affordable housing zones (30% and 40%) as presented on the policies map. Marlborough falls within the 40% zone as shown on the map within Appendix 1 of the Revised Wiltshire Planning Obligations Supplementary Planning Document (October 2016). The proposed level of affordable housing is therefore consistent with the strategic policy although I am aware that work being undertaken as part of the Local Plan Review will include new and updated viability assessments.

On the matter of the Policy expectation that the housing will be "10% private rented housing for occupancy only by qualifying current and former employees of Marlborough College" I believe this is a matter for the landowner to negotiate rather than a matter for planning policy; the principle that these are "of an equivalence to affordable rented accommodation" is not established.

**Recommendation 5:**

*Under the sub-heading "Land at Barton Dene" reword the Policy as follows (as a general*

*principle, the use of letters or numbers for Policy paragraphs, rather than bullet points, will allow the content of Policies to be readily referenced):*

*'Within the site boundary shown on the adjacent plan, proposals will be supported for up to 40 homes on a developable area of no more than 1.5 Ha, limited to ensure that the development retains a natural setting, and subject to the following:*

- a) Land shall be safeguarded adjoining the existing leisure centre, as illustrated on the adjacent plan, for the potential provision of new medical facilities to serve the town, this safeguarding will be reviewed within the first review of the Neighbourhood Plan;*
- b) The proposals shall include for 40% affordable housing;*
- c) The layout and form of development shall be designed in such a way as to conserve the landscape and scenic beauty of the AONB and to protect and enhance the setting of Barton Farm House and Barton Farm Stables; the northern boundary has a high sensitivity, and this should be reflected in the finished building heights and boundary treatment;*
- d) A Landscape Visual Impact Assessment, including consideration of heritage assets, shall inform the proposals and accompany the submission;*
- e) Key existing green infrastructure, including mature trees, within the site shall be retained and protected from the impacts of development, subject to practical limitations;*
- f) Safe vehicular, cycle and pedestrian access must be achieved, with appropriate mitigation; this must not compromise access to, or the continued presence and operation of, the existing leisure centre;*
- g) Interconnectivity with the existing footpath network should be achieved whilst respecting existing rights of way; and*
- h) A biodiversity strategy shall demonstrate how the proposal will deliver a biodiversity net gain.'*

### **Land off Cherry Orchard**

As the local authority representation notes: "The site is included within the current defined limits of development and is previously developed land. The principle of accommodating new development at this site would be supported in general landscape planning policy terms." The AONB adds: "Welcome the use of a brownfield site."

The Qualifying Bodies have acknowledged that this site is affected at its south-western boundary by a restrictive covenant and at that location also by its proximity to the old railway line, an important ecological site. The local authority has commented: "It is difficult to understand how the policy requirements for biodiversity net gain and conservation and enhancement of the AONB will be acceptably deliverable based on these envisaged new home numbers [30] at this small site and the likely tree removals and weakening of the existing vegetated disused railway Green Infrastructure corridor required to achieve this." I note that the Site Assessment Report says: "In June 2020 WC confirmed that the developable area of Cherry Orchard had to be reduced by half to take account of a restrictive covenant, thereby reducing its capacity to 15 homes." The AONB has added: "Ecological assessments must play a part in shaping the development." The Qualifying Bodies have advised that they understand "that proposals for a scheme of 24 homes is (*sic*) coming forward in a way that will be consistent with these policy provisions and with the broader housing supply strategy of MARL1". But that has yet to be assessed as a

deliverable proposal. In the absence of detailed evidence supporting the assessed capacity of this site there is a need to be cautious, respecting the AONB status and the ecology issues; according I propose that 'at least 15 homes' is included as the Policy expectation.

The Environment Agency has noted that this site is "partially within inner [public water] Source Protection Zone 1. This therefore needs to be addressed within the Policy.

As noted above, Marlborough falls within the 40% zone for affordable housing as shown on the map within Appendix 1 of the Revised Wiltshire Planning Obligations Supplementary Planning Document (October 2016). The proposed level of affordable housing is therefore consistent with the strategic policy.

**Recommendation 6:**

*Under the sub-heading "Land off Cherry Orchard" reword the Policy as follows:*

*'Within the site boundary shown on the adjacent plan, proposals will be supported for at least 15 homes on a developable area of no more than 1.0 Ha, limited to ensure that the development retains a natural setting, and subject to the following:*

- a) The proposals shall include for 40% affordable housing;*
- b) The scheme shall have a highways access on to Cherry Orchard only with appropriate mitigation to assure safe vehicular, cycle and pedestrian access;*
- c) The layout shall retain public right of way MARL30 through and on the boundary of the site;*
- d) The issues arising from part of the site's location within the Marlborough public water Source Protection Zone 1 must be satisfactorily addressed;*
- e) A biodiversity strategy shall include for retaining the green infrastructure along its south-western boundary to protect the habitat corridor (the former railway line) towards the Savernake Forest SSSI to its south, as well as demonstrating proposals to deliver a biodiversity net gain; and*
- f) The layout and form of development shall be designed in such a way as to conserve the landscape and scenic beauty of the AONB.'*

**Land at Kelham Gardens**

This site too is included within the current defined limits of development and is previously developed land. However, the local authority has noted: "The land allocation lies within Flood Zone 2 and is at risk from surface water flooding. The NPPF advises that development should not be allocated or permitted in areas at risk of flooding if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Planning Practice Guidance clarifies that in plan making, this means applying a sequential approach to site selection so that development is, as far as reasonably possible, located where the risk of flooding (from all sources) is lowest, taking account of climate change and the vulnerability of future uses to flood risk." Paragraph 5.9 in the Plan text says: "Although the MANP is able to allocate land outside of the flood zone it is considered that the remediation and redevelopment of the site for a new residential use presents a more sustainable option than leaving the land derelict, and so the sequential test is passed." But it is not within the scope of the Sequential Test to reach such a conclusion.

In response to this query the Qualifying Bodies have commented: "The SG considers it has correctly applied the sequential and exception tests of the NPPF but the wording used to explain this may be improved. It has been demonstrated that there are insufficient available and suitable sites of a lower flood risk than this site to meet the NP housing supply strategy,

thus the sequential test is passed. Whilst others may speculate on the availability of other sites, the SG must be clear on this matter and went to great lengths to ascertain availability in its assessment process. The SG notes WC's recent confirmation that its own data indicates there are no other available brownfield sites in the town. And as already noted, neither WC nor the AONB would support additional greenfield sites in Flood Zone 1 being allocated for housing. In which case, as it is 'not possible for development to be located in areas with a lower risk of flooding taking into account wider sustainable development objectives (as per NPPF paragraph 163)', the exception test has been applied. In doing so, the SG has explained how the redevelopment of this eyesore, derelict, contaminated but very well-located site will 'provide wider sustainability benefits to the community that outweigh the flood risk.' The land promoter has reassured the SG that the emerging proposals 'will be safe for the lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.' The allocation policy makes clear that a flood risk management [plan] will need to demonstrate this is the case at the planning application stage. The SG considers that it is not practical for a Qualifying Body or an LPA to carry out a technical assessment of detailed flood risk management proposals at the plan making stage and nor does the NPPF make it a requirement."

I note again an overreliance on assertion by other parties, whereas the Environment Agency has observed: "It is important that your Plan also considers whether the flood risk issues associated with any proposed development can be safely managed to ensure development can come forward." However, in this instance an immediately adjacent site has recently gained a planning consent for residential development (ref 20/08715/FUL), albeit subject to significant conditions regarding mitigation. Also, I note that the Environment Agency has further commented: "If development is to be allocated in area at risk of flooding, the plan should minimise the risk by taking a sequential approach to the development layout. The Kelham Gardens site contains a small island of Flood Zone 1 at the northern end, however this would need to be refined as part of site specific Flood Risk Assessment." This expectation, as well as an expectation of mitigation of the type required for the adjacent consent, should therefore feature in the allocation Policy.

In relation to the capacity of the site I note that the local authority has commented: "It is however questioned whether the area of the site is sufficient to accommodate 10 units, with 2-3 bedrooms which is the requirement of Policy MARL3, with associated parking and services within a building(s) no greater than 2.5 metres [which I believe should read storeys]. The details shown on the supporting plan is for a scheme of 9 flats, 3 of which would be 1 bed only." If the final layout requires concentration of development on part only of the site, then this would exacerbate the concerns of the local authority. "10 dwellings or more" is of course the NPPF threshold (paragraph 64) for an affordable housing provision to be required. Since it is evident that the Qualifying Bodies are seeking affordable housing through each of the site allocations, and discussions have been had with land interests on that basis, I have not recommended an amendment to this aspect of the Policy. I will later consider Policy MARL3.

**Recommendation 7:**

*Under the sub-heading "Land at Kelham Gardens":*

*7.1 Provide an identifiable boundary for the site being allocated.*

*7.2 Reword the Policy as follows:*

*'Within the site boundary shown on the adjacent plan, proposals will be supported for a flatted scheme of up to 10 homes on a developable area of approx. 0.1 Ha, subject to the following:*

- a) The proposals shall include for 40% affordable housing;*
- b) The buildings shall be no more than 2.5 storeys in height;*

- c) *The scheme shall have a highway access on to Kelham Gardens only;*
- d) *The risk from flooding both within the site and beyond the site arising from the development must be addressed as required by national policy and appropriate mitigation measures included through a sequential approach to the development layout as part of a site-specific Flood Risk Assessment; and*
- e) *A biodiversity strategy shall demonstrate how the proposal and any works necessary to address ground contamination will avoid any harmful effects on the River Kennet SSSI to its immediate south.'*

**B. For all the above site allocations the proposals will be required to demonstrate the effects of traffic they will generate can and will be effectively mitigated ....**

The local authority has commented: "there are no specific details of the mitigation measures that may be required and whether these relate of off-site highway works, albeit the commentary within paragraphs 6.12 – 6.13 about exploring future opportunities is recognised." A representation comments: "We cannot simply keep on building houses and hope the pollution problems go away." Now that the individual schemes are quite modest in size the scale of expectations through mitigation is also reduced. The Qualifying Bodies have commented: "Although transport assessments will be required of each of the site allocations, and any other proposals for major development, the SG wished to respond to comments raised at the Reg 14 stage and included this provision in the final policy. It is especially mindful of the AQMA [Air Quality Management Area] but considers that allocating sites that are relatively modest in size .... and that are distributed around the town in locations that all lie within a reasonable walking and cycling distance of the town centre would be a self-evident mitigation strategy." With the Salisbury Road site removed I agree that this approach is acceptable at the site allocation stage.

**C. Archaeological investigations will be required in accordance with existing development plan policies**

Whilst it is not identified in the supporting text that there are archaeological assets on or adjacent to any of the identified sites, the inclusion of element C aligns with the requirement of the NPPF and Core Policy 58 'Ensuring the Conservation of the Historic Environment' of the Core Strategy.

**D. For the avoidance of doubt, Policy MARL3 will apply to all of the site allocation schemes in respect of the housing type mix ....**

I will comment on Policy MARL3 below. Since there is a cross-reference to this Policy there is no purpose in repeating the Policy in different words at this juncture.

***Recommendation 8:***

*Under the sub-heading "D. For the avoidance of doubt, ....", remove the second sentence.*

**Paragraphs 5.6 – 5.11**

I note that a representation suggests that the Plan should: "Provide explanatory text for each of the proposed site allocations to assist understanding of the specific requirements/provisions of each site and mitigate the risk of uncertainty in future decision-making." It seems to me that the Plan does include some explanation for each, but briefly, there being an expectation that the Site Assessment Report will be accessed for fuller detail. With the Salisbury Road site excluded, I conclude that this approach is acceptable. The details here now need to be brought in line with the modifications recommended above.

***Recommendation 9:***

*Under the heading "Policy MARL1: Delivering Affordable Homes in Marlborough":*

9.1 Amend paragraph 5.6 to read: *'This policy allocates three sites in Marlborough to deliver a total of approximately 26 affordable homes from a total of approximately 65 homes.'*

9.2 Amend the third sentence of paragraph 5.8 to replace "two of the four sites are outside but adjoin its development boundary" with *'one of the three sites is outside but adjoins its development boundary'* and the NPPF paragraph reference from "172" to '176'.

9.3 Replace the fourth sentence of paragraph 5.9 with: *'It has been demonstrated that there are insufficient available and suitable sites of a lower flood risk than this site to meet the Marlborough housing requirement, thus the sequential test is passed. As it is 'not possible for development to be located in areas with a lower risk of flooding taking into account wider sustainable development objectives (as per NPPF paragraph 163)', the exception test has been applied.'*

9.4 Replace paragraph 5.10 with: *'The site at Barton Dene represents a modest extension of the development boundary in a sustainable location with non-car accessibility to the town centre. The site has been assessed as 'major development' in the AONB, as per NPPF paragraph 172, and it has been concluded that the public benefits of the development – in this instance the delivery of vital affordable homes – outweigh its detrimental effects on the local environment and landscape, the effects of which are assessed as capable of appropriate mitigation.'*

9.5 In paragraph 5.11, first sentence, replace "130" with '65' and replace "greater" with 'significant'; delete the third sentence commencing "The Rear of Salisbury Road scheme ...".

As amended Policy MARL1 meets the Basic Conditions.

### **Policy MARL2: Encouraging Affordable Homes in Mildenhall**

I note that Policy MARL2 does not allocate a specific site to meet Mildenhall's needs nor does it identify locational criteria helping to identify a preferred location that would best fit within Mildenhall and its existing infrastructure. The Qualifying Bodies have explained: "WC was not supportive of the MANP allocating land in either village but, at the Parish Council's request, rather than remain silent the SG instead formulated a policy that encourages proposals for affordable housing to come forward. However, the supporting text notes that this is not to meet the specific needs for such housing from the existing community (although there is wider demand in the MANP area evidenced through the Housing Needs Assessment). Such housing is wanted instead to encourage younger people and families to move into the village to build its vibrancy. Like many such villages, the community is seeing an aging and declining population and wishes to tackle this....The policy does include a criterion (4) that will help determine the extent to which the location and nature of the scheme will successfully stitch into the village fabric and meet AONB policy obligations."

As the Qualifying Bodies have noted, the NPPF (paragraph 72) does not support the use of "exception sites" within AONB areas. The Wiltshire Core Strategy does not identify Mildenhall as a "Small Village", which suggests that development at Mildenhall is less favoured than small villages where "development will be limited to infill within the existing built area" and where it is an expectation that "development: i) Respects the existing character and form of the settlement ii) Does not elongate the village or impose development in sensitive landscape areas iii) Does not consolidate an existing sporadic loose knit areas (sic) of development related to the settlement." To these significant constraints must be added the requirement via Core Policy 14 and paragraph 5.78 of the Core Strategy that: "all development within the [Marlborough] Community Area will need to conserve the designated landscape of the North Wessex Downs Area of Outstanding Natural Beauty and its setting, and where possible enhance its locally distinctive characteristics". It is evident therefore that Mildenhall is not considered an appropriate location for any significant development.

However, Core Strategy paragraph 5.78 does also indicate support for “sustainable and measured growth throughout the plan period that will also help to deliver affordable housing in the Community Area and improve access to open market housing. This will help to provide a local workforce for current and new employers moving to the area”. And Core Policy 44 does say that, at “settlements [including] those not identified within the settlement strategy, a proactive approach to the provision of affordable housing will be sought in conjunction with parish councils and working with local communities and other parties.” It is appropriate, therefore, for the Qualifying Bodies to adopt a “proactive approach”, but this must be within the limits suggested by other related local and national Policies. Within that context, and after visiting Mildenhall, I cannot conclude that developments of anywhere approaching 10 units would be appropriate; capacity for infill and respecting “the existing character and form of the settlement” would suggest much smaller, individual sites. The Policy wording needs better to reflect the village form of Mildenhall and strategic policy expectations.

As the local authority notes, the very specific type of development suggested relies on current/historic evidence that may no longer be applicable at a future date when/if an acceptable site(s) is identified. The local authority suggestion for greater flexibility would therefore seem to be a good one.

Some aspects of the supporting statement are puzzling:

Para 5.13 suggests that “MANP needs to bring forward proposals for at least 100 affordable homes” – I believe that this is the first time that a such a figure has been suggested in the Plan document, albeit its relevance to Mildenhall is questionable.

Para 5.14 comments about: “forms of affordable housing that are especially well-suited to targeting young people as first-time buyers but cannot be delivered in this location due to its position in the AONB”. But exception sites are not the only means to deliver affordable housing if community support is available.

**Recommendation 10:**

*Under the heading “Policy MARL2: Encouraging Affordable Homes in Mildenhall”:*

*10.1 Reword Policy MARL2 as follows (for consistency with my recommendations for MARL1 I am showing letters but numbers would be equally acceptable):*

*‘Proposals to deliver affordable homes for first-time buyers in Mildenhall are encouraged provided:*

- a) The new housing respects the village character and form and is provided as infill within the existing built area;*
- b) All of the homes have two or three bedrooms only and are either discounted market sales housing or other routes to affordable homes for first-time buyers;*
- c) The design and layout of the scheme sustains and enhances the significance of the Mildenhall Conservation Area and the setting of other heritage assets as defined in Policy MARL12;*
- d) The layout and form of housing is designed to conserve the designated landscape of the North Wessex Downs Area of Outstanding Natural Beauty and its setting, and where possible enhance its locally distinctive characteristics, and*
- e) Where appropriate to the location, a landscape scheme is designed to support the transition from the built area of the village into the surrounding countryside.’*

*10.2 In paragraph 5.12 replace “an affordable housing scheme” with ‘infill affordable homes for first-time buyers’.*

10.3 In paragraph 5.13 delete the third sentence.

10.4 In paragraph 5.14 delete the second sentence.

10.5 Replace paragraph 5.15 with: *'This Policy is a locally appropriate response to Core Policy 44 which says "a proactive approach to the provision of affordable housing will be sought in conjunction with parish councils and working with local communities and other parties.'*

As amended Policy MARL2 meets the Basic Conditions.

### **Policy MARL3: Meeting Local Housing Needs**

As worded Policy MARL3 does not apply to allocated sites either inside or outside of the "Marlborough development boundary", which the Qualifying Bodies have confirmed is a reference to the settlement boundary defined in the Wiltshire Housing Site Allocations Plan. However, Policy MARL1 element D makes a contrary statement "for the avoidance of doubt".

I note that the 'Planning for Marlborough' Study includes a forecast that "In the years 2016-2036 the older population is expected to increase by 25% in the 60-74 age group and 85% in the 75+ age group .... the 30-44 age group is expected to increase by 4% and the 45-59 age group to decrease by 14%." Against this background it is difficult to see that the very specific requirements of Policy MARL3 are justified.

The Qualifying Bodies have commented: "Where there have been rare opportunities for significant brownfield site developments in the last decade or more, they have most often been developed for age-restricted, retirement complexes" and "Worse, WC has been unable to require any affordable housing contributions from these schemes given their NPPF paragraph 65(b) exemption which has superseded WC's Core Policy 46". The local authority has provided me with a tabulation that supports the concern to some degree; of the brownfield housing schemes permitted since April 2010 the data shows that only 13 of the 144 units approved were not age-restricted. I also note that all of the brownfield sites were of a size where affordable housing could have been required were it not for the specialist-related limitation. However, 210 general units were approved on non-brownfield sites. The Qualifying Bodies have commented: "with so much of the demand for this [age restricted] accommodation type being driven from outside the county, it seems reasonable to expect other suitable locations in the county to plan to meet it for the rest of the plan period", but no evidence is provided to support the "outside the county" assertion. Since the evidence, taken as a whole, is equivocal on the matter of housing the elderly, whereas the evidence on the need for affordable housing is clearer, a positively expressed Policy could oblige proposals to address both evidenced local needs and encourage a greater affordable housing element.

### **Recommendation 11:**

*Under the heading "Policy MARL3: Meeting Local Housing Needs":*

*11.1 Reword Policy MARL3 as follows:*

*'To be supported, development proposals for the sites allocated at MARL1 and for windfall sites within the designated Marlborough Settlement Boundary must address evidenced local housing needs and maximise their contribution of two and three bed affordable housing, wherever possible exceeding the levels stipulated in Wiltshire Council Policy. Specialist accommodation for elderly people is not considered a current priority.'*

*11.2 Amend paragraph 5.16 by replacing "it discourages proposals for any form of housing intended for older people" with 'it seeks to maximise the proportion of housing that is affordable and to discourage proposals for any form of housing intended solely for older people'.*

11.3 Delete the last two sentences of paragraph 5.19.

As amended Policy MARL3 meets the Basic Conditions.

#### **Policy MARL4: Supporting a Thriving Town Centre**

This Policy matches with the expectation of NPPF paragraph 86: "Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation." I note that paragraph 5.22 says: "The retail evidence base has been used to define the Town Centre area". However, I am not presented with any evidence of the methodology used to delineate these areas. The Qualifying Bodies advised and the local authority confirmed that the defined Town Centre Area has been derived from and matches that of the Kennet Local Plan Policies Map (policies ED18 and ED19).

The local authority has noted that "any other uses not identified within the plan which could positively contribute to the vitality and viability of the centre would have to be assessed on their own merits". In this regard it is perhaps unexpected that the new Class F Community Uses are not mentioned. The Qualifying Bodies agreed that some learning and non-residential institution uses (F1) and local community uses (F2) may also be appropriate in the defined Town Centre Area and supported a recommendation to this effect.

#### **Recommendation 12:**

*Under the heading "Policy MARL4: Supporting a Thriving Town Centre":*

*12.1 Amend the Policy to add a new element C (and re-letter subsequent paragraphs):  
'The Town Centre will be an appropriate location for local community uses and some learning and non-residential institution uses which benefit from its ease of access.'*

*12.2 In paragraph 5.22 replace "The retail evidence base has been used to define" with 'The Kennet Local Plan defined'.*

*12.3 In paragraph 5.26 the reference to "MARL14" should be corrected to 'MARL13'.*

As amended Policy MARL4 meets the Basic Conditions.

#### **Policy MARL5: Improving Public Parking**

I note the evidence in the study of car parking capacity in the town centre and the 'Planning for Marlborough' Study notes as a current concern "Shortage of parking at peak times, creating parking issues for both residents and visitors with uncontrolled parking on residential streets." Some representations are sceptical of the value of a parking area 10 minutes' walk from the centre. The scepticism appears to be compounded by the selection of piece of land that relates well to the Common, the type of open land that other parts of the Plan seek to protect. Whilst the Policy makes efforts to avoid an asphalt intrusion, rows of parked cars/vans would, on the face of it, be visually intrusive on both the "open setting to the Grade II listed former Union Workhouse at St. Luke's Court" and "the remainder of the Common". However, the Town Character Study does address the proposal and I note the conclusion that "It is considered that, if appropriately detailed and implemented, the improvement of the Rugby Club car park could offer the opportunity for enhancement of the area." My visit to the area confirmed that there is significant on-street parking in the vicinity. I am however unsure how, without kerbs, bunds etc, it will be possible to distinguish a "a meaningful nib of land [grass?]" and "the continuous swathe" [of grass?] to prevent damaging these with overspill parking. I note that the Character Study does not say "no kerbs" but rather "edge treatment should be appropriate to and harmonise with the natural, informal quality of the common".

From my visit to the site, it was evident that part of the site identified for allocation is already an established parking area. The only part requiring allocation is the extension to the south.

**Recommendation 13:**

*Under the heading “Policy MARL5: Improving Public Parking”:*

*13.1 Amend element 1 of the Policy to remove “kerbs,” and correct element 5 to start with a capital letter.*

*13.2 Amend the Policies Map to identify with the red line only that area not presently allocated for parking.*

As amended Policy MARL5 meets the Basic Conditions.

**Policy MARL6: Delivering New Cemetery Land**

It is helpful that the Neighbourhood Plan addresses land use needs based on local knowledge. Because it is not covered in the supporting text, it is unclear what “ancillary buildings” might be thought to be needed, as referred to in the Policy, and whether such buildings could be better located outside of the new site rather than on the exposed edge of the whole site. The Qualifying Body confirmed that the reference to “ancillary buildings” should be deleted.

**Recommendation 14:**

*Within “Policy MARL6: Delivering New Cemetery Land” replace the second sentence with: ‘The laying out of the land must conserve the designated landscape of the North Wessex Downs Area of Outstanding Natural Beauty and its setting.’*

As amended Policy MARL6 meets the Basic Conditions.

**Policy MARL7: Protecting & Supporting Community Facilities**

NPPF paragraph 93 supports positive planning for community facilities. It is helpful that local knowledge has been used to identify valued community facilities. From my visit to the area I was able to confirm that the facilities identified can appropriately be termed ‘community facilities’. I note that the related Core Policy 49 provides greater detail on a suitable test of viability to be applied. Within Core Policy 49 it is accepted that, as a second option, a change of use or a mixed use may help to retain the community benefit of a building; it is not explicitly said in MARL7 whether this is ruled in or out.

I note that, unlike the title to Policy MARL8, Policy MARL7 omits “Improvement” and the Policy wording prioritises the negative wording – what is not wanted – over the positive wording of the second sentence – what is positively sought. It is questionable whether there is a need for these two Policies to be expressed differently.

It would seem that no site-specific assessment has been made about their potential to accommodate changes to “sustain or extend the viable use”; therefore, support should only be offered ‘in principle’.

The Qualifying Bodies agreed that modified wording would be appropriate.

**Recommendation 15:**

*Within “Policy MARL7: Protecting & Supporting Community Facilities”:*

*15.1 Move the sentence “Development proposals to sustain or extend the viable use of existing community facilities, and the development of new facilities, will be supported” from element B to the beginning of element A.*

15.2 Add to element B: 'or a change of use or a mixed use will help to retain the community benefit of a building'.

As amended Policy MARL7 meets the Basic Conditions.

### **Policy MARL8: Protecting and Improving Sports Facilities**

NPPF paragraph 98 acknowledges that "Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities". It is helpful that local knowledge has been used to identify valued community facilities. Some representations are critical of the Policy for not going further and allocating suitable land for additional sports facilities. I note that the 'Planning for Marlborough' Study references additional, specific requirements from the "Wiltshire Playing Pitch Strategy". The Qualifying Bodies have responded that "the SG was not able to identify suitable land for new facilities, despite its great endeavours".

In relation to the Policy wording, element C uses the phrase "or that a replacement facility has received planning permission", but planning permission of itself would not guarantee a replacement facility.

#### **Recommendation 16:**

*Within "Policy MARL8: Protecting and Improving Sports Facilities", in element C, replace "has received planning permission" with ', at least as conveniently located and well-equipped, is provided'.*

As amended Policy MARL8 meets the Basic Conditions.

### **Policy MARL 9. A Design Code for the Marlborough Conservation Area**

A representation queries the use of the term "Design Code" in this and subsequent, related Policies; certainly the documents themselves do not use the term. National Planning Policy uses the term in the context of new-build developments, the Code guiding the design process. The supporting text uses "design principles and guidance" and the Town Character Study refers to the "design guidance" in the Conservation Area Statement. The Statement itself says that it "aims to provide an assessment of the Marlborough Conservation Area, for use by all those involved in influencing the management of change in its built and living form". 'Guidance' would appear to be the most appropriate term.

In law, the "setting" of a Conservation Area (unlike a Listed Building) is not subject to protection. Whilst I note that the Conservation Area Statement provides a description of the "Landscape Setting" for Marlborough, the detail relates exclusively to the defined Area. I believe that Policy MARL10 addresses other areas of importance outside of the presently defined Conservation Area. Accordingly, Policy MARL9 should be restricted to within the Conservation Area boundary leaving the planning decision maker to consider its relevance to proposals at the boundary.

The Qualifying Bodies have confirmed that they "would be happy with the examiner's suggested modification to the titles of these policies and to delete the reference to 'setting'".

Incidentally, in accessing the Conservation Area Statement I noted that none for the Marlborough Neighbourhood Area is included on the Wiltshire webpage for Conservation Areas. This seems to emphasise the value of adding hyperlinks to the 'Schedule of Evidence' document listing at Appendix B of the Neighbourhood Plan (see later recommendation).

**Recommendation 17:**

*17.1 Within the heading “Policy MARL 9. A Design Code for the Marlborough Conservation Area” replace “A Design Code” with ‘Design Guidance’.*

*17.2 Within Policy MARL 9 delete two uses of “and its setting”.*

As amended Policy MARL9 meets the Basic Conditions.

**Policy MARL10: A Design Code for Marlborough’s Areas of Special Quality**

My comment regarding the Term “Code”, above, applies equally here. I note that the proposed designations are supported by the Town Character Study and by the local authority. My visit to the Areas confirmed that these areas are of a distinctive character and warrant the special attention provided by the Policy.

**Recommendation 18:**

*Within the heading “Policy MARL10: A Design Code for Marlborough’s Areas of Special Quality” replace “A Design Code” with ‘Design Guidance’.*

As amended Policy MARL10 meets the Basic Conditions

**Policy MARL11: A Design Code for Manton**

My comment regarding the Term “Code”, above, applies equally here. I note that the Policy is supported by a Design Study and is supported by the local authority. My visit to the Area confirmed that the identified area is of a distinctive character and warrants the special attention provided by the Policy.

**Recommendation 19:**

*Within the heading “Policy MARL11: A Design Code for Manton” replace “A Design Code” with ‘Design Guidance’.*

As amended Policy MARL11 meets the Basic Conditions

**Policy MARL12: A Design Code for Mildenhall**

My comment regarding the Term “Code”, above, applies equally here. I note that the Policy is supported by a Design Study and is supported by the local authority. My visit to the Area confirmed that the identified area is of a distinctive character and warrants the special attention provided by the Policy.

**Recommendation 20:**

*Within the heading “Policy MARL12: A Design Code for Mildenhall” replace “A Design Code” with ‘Design Guidance’.*

As amended Policy MARL12 meets the Basic Conditions

**MARL13: Protecting Local Heritage Assets**

Both the NPPF and the Core Strategy support the identification and appropriate protection of heritage assets. I note that the non-designated heritage assets – this is the correct planning term to use within the Policy - that are the subject of this Policy have been supported through the Design Studies that accompany the Plan. I note that in respect of the Savernake Study it is said “The list of Savernake Heritage Assets was produced by Savernake Parish Council, and then professionally vetted by the Neighbourhood Plan consultants”; this therefore should be acknowledged on the cover of the Report.

A representation makes a significant point in relation to the Policy element A wording: “It is clear that the determination of applications which affect non-designated heritage assets requires a lesser test of a ‘balanced judgement’ by the decision maker, rather than the emphasis on the applicant to demonstrate a) the level of harm, and b) the public benefits arising from the proposed development. With regards to non-designated heritage assets, there is therefore no basis in policy for describing harm to them as substantial or less than substantial, rather the NPPF requires that the scale of any harm or loss is articulated.” It is suggested that Policy MARL13 be reworded in line with the NPPF expectation (paragraph 203): “In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.” The Qualifying Bodies agreed that a rewording was appropriate.

The wording of Policy element B is quite awkward given that it applies to only a small part of the Neighbourhood Area and one within which development is severely restricted. The Qualifying Bodies agreed that a rewording was appropriate.

**Recommendation 21:**

*Under the heading “MARL13: Protecting Local Heritage Assets”:*

*21.1 Reword Policy MARL13 as follows:*

*‘A. The local non-designated Heritage Assets are identified on the list in Appendix A. Development proposals that directly or indirectly affect these non-designated heritage assets will be assessed with a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset.*

*B. At the North West boundary of the Neighbourhood Area, development proposals must assess and address their impact on the Stonehenge & Avebury World Heritage Site and its setting.’*

*21.2 Add to the cover of the “Savernake Parish Local Heritage Assets Study July 2021” details of the independent vetting of the content.*

As amended Policy MARL13 meets the Basic Conditions

**Policy MARL14: Protecting and Improving Green Infrastructure**

As the local authority confirms, “The policy aligns with the objectives of Core Policy 50 ‘Biodiversity and Geodiversity’ and Core Policy 52 ‘Green Infrastructure’ of the WCS and applies them to the local context of the draft Plan area.” The supporting statement however provides no details for the methodology for arriving at a “network” of spaces that may be considered interconnected. I am provided with details within Supporting Document 2 of 10 “Important Wildlife Corridors” most of which are not illustrated by or indexed to the Policy Map. The Qualifying Bodies have acknowledged that they “prepared the four Open Space reports throughout the plan making process to inform its policies. Not all of its work resulted in policy proposals – for example it had difficulty in mapping the Important Wildlife Corridors and decided not to include them on the MARL14 policy maps”. Further, I am presented with a number of maps, under the heading “Conserving Scenic Beauty of the AONB”, that, whilst they are said to relate to Policy MARL17, more obviously perhaps relate to the illustration of Policy MARL 14. Again, the Qualifying Bodies have explained that the “mapping of specific locations in the AONB (for MARL17) was incorrectly added to the MARL14 maps, an error which can be corrected in preparing new policy maps. The SG infers that this may have led to confusion between the ecological focus of MARL14 and the landscape focus of MARL17.”

Whilst some spaces and ribbons have an obvious interconnectedness, others are quite isolated and, because the nature of the spaces is not stated, it is difficult to envisage their value in network terms, as opposed to their value purely as open space. A representation

requests the omission of the Water Meadows sports pitches, surface car park and amenity lawn to the south of Marlborough College and also College Fields, but I can see their open space value.

However, I note that Core Policy 52, as explained in paragraphs 6.88. & 6.89 of the Core Strategy, is all-encompassing and it suggests that the green infrastructure identified through the Neighbourhood Plan would be regarded as such for the purposes of the Wiltshire Green Infrastructure Strategy. Accordingly, subject to the correction of the Policies Maps, I conclude that Policy MARL14 is appropriately aligned with the Core Strategy.

There is the need for further clarity on some aspects of the Policy wording:

- Element A makes rather grander claims than the identification of existing Green Infrastructure can deliver.
- Element C refers to loss of “land” by which I presume is meant ‘green space’. It also requires that extensions to the Network should be “co-ordinated with local investment projects to improve the Network”, but is it of itself encouraging an improvement.
- Element D refers to “woodland planning”, by which I think is meant ‘planting’, being at a location “that has been designated for that purpose”; but there is no clarity as to from where the designation comes. If, as appears likely, this is part of the “guidance” to follow then the Policy at this stage should not reference an approach not yet consulted upon and agreed.

The Qualifying Bodies agreed “that clauses C and D may be better worded to improve their clarity as the examiner suggests, together with the provision of clearer Policies Maps”.

### **Recommendation 22:**

*Under the heading “Policy MARL14: Protecting and Improving Green Infrastructure”:*

#### *22.1 Within Policy MARL14:*

*22.1.1 In element A replace the first sentence with: ‘The Green Infrastructure Network, as shown on the Policies Map, is recognised for its existing value and further potential providing open space and ecological connectivity.’*

*22.1.2 In element C, in the first sentence, replace “land” with ‘green space’ and replace the last sentence with ‘Development proposals that will lead to the improvement and extension of the Network will be supported in principle.’*

*22.1.3 Reword element D as follows: ‘Proposals that will contribute to sequestering carbon through appropriate woodland planting and other effective means proportionate to the scale and nature of the proposal will be supported, whether delivered on the proposal site or at another agreed location.’*

*22.2 Amend the related Policy Maps to exclude all green areas that were identified in relation to Policy MARL17.*

As amended Policy MARL14 meets the Basic Conditions

### **Policy MARL15: Protecting Local Green Spaces**

I note the intention to designate 7 Local Green Spaces. Looking at the supporting document it is evident that Test 4 is inadequately expressed – or there ought to be a Test 5 – since the NPPF criterion requires that a space is “Demonstrably special to a local community and holds a *particular* local significance” (my emphasis added) whereas Test 4 refers only to “Is the site demonstrably special to the local community?” Having said that, there is evidence within the appraisal of sites that a “particular significance” for selected sites has been identified within the descriptive detail.

I note that Marlborough College has objected in their representation to the designation of site no.7 Land at College Fields/Barton Park, Marlborough; the local authority originally also made an objection but that has subsequently been withdrawn. The College notes: “the Open Spaces in MANP Area Regulation 15 Supporting Document 1 (dated 28/07/2021) identifies ‘limited recreational use’ (see page 8) and no other ‘particular local significance’. In this regard, the land must be considered to fail [the NPPF requirements]. However, it is still put forward for designation as Local Open Space in the MANP”. “Moreover, its potential to deliver on other aspects of sustainable development (i.e. social and economic), or release the potential of land adjoining, will be prematurely inhibited.” The Qualifying Bodies have responded: “The SG disagrees with Marlborough College. Should the College seek to bring forward proposals at Barton Park outside the Neighbourhood Area (in Preshute Parish) in future then it will need to make the very special circumstance case in its application (or argue why the provision of a road across the site is not ‘inappropriate development’). These are not matters that relate to the designation criteria now and this proposal does not undermine ‘the local planning of sustainable development’.” Having now seen the Space in question, I can see that it is an informal space with, apparently, well-trodden footpaths which performs an important function of retaining the original valley ridge line which is otherwise lost to housing. Accordingly, I accept that the designation criteria – set down now in the NPPF paragraphs 101 to 103 – have been met. I do not see the development of other land being precluded.

The map included in the Plan that presently defines the areas proposed for Local Green Space designation, at its scale, does not provide the necessary clarity about the boundary for each space. I note that the accompanying Supporting Document 2 does provide further clarity and for the published Plan there will need to be individual maps for each space alongside the current location map, I suggest within an Appendix. The Qualifying Bodies have agreed that more detailed maps are required. The correction of the location map to omit Marlborough Green will also need attention. During my visit to the area, I noted that a surfaced car park at the entrance to the Salisbury Road Recreation Ground Local Green Space had been included as green space; the car park should be omitted from the designated area.

**Recommendation 23:**

*Under the heading “Policy MARL15: Protecting Local Green Spaces”:*

*23.1 Amend the opening sentence of the Policy to ‘Local Green Spaces are designated in the locations listed below and shown on the Policies Map and in detail in Appendix B’ (re-letter the existing Appendix B accordingly).*

*23.2 In paragraph 5.52 amend “paragraphs 99 - 100 of the NPPF” to read ‘paragraphs 101 - 103 of the NPPF’.*

*23.3 Amend the Policies Map to remove the Space at Marlborough Green which is not being designated; also amend the boundary of the Salisbury Road Recreation Ground Local Green Space to exclude the surfaced, entrance car park.*

*23.4 Add an Appendix B to provide individual maps of the designated spaces at a scale that allows the boundary to be identified with absolute clarity.*

As amended Policy MARL15 meets the Basic Conditions

**Policy MARL16: Protecting Valued Community Open Spaces**

Paragraph 99 of the NPPF makes it clear that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless specific requirements are met. Policy MARL16 identifies the specific open spaces that are valued in the Neighbourhood Area.

In relation to the separation between Policies MARL14 and MARL16 the Qualifying Bodies have explained: “The SG had identified these [MARL16] spaces primarily for their community amenity and recreational value. However, its Open Space reports show that the spaces may also contribute to the wider network of primarily ecologically valued assets in the Area. Hence, the spaces are shown on the MARL14 maps, but are not specifically identified on those maps, which can be corrected on the new policy maps. It agrees that the new policy maps should be at a scale to label and clearly identify the boundary of each space.” I suggest that the two designations are shown on the same maps, at a suitable scale for the boundaries to be clear, thus making apparent the areas of overlap.

A representation queried the identification of the highway verge space at Cadley (MARL16 17) as being of community value. My understanding is that the space was identified by Savernake Parish Council. My visit to the site revealed that the space does provide a green and open frontage to the properties at this location but, whilst at the scale of map provided it was difficult to distinguish, it appears that part of a private garden space has been included with the community space; this will need checking and correction as required.

There are some issues with Policy wording clarity:

- “ancillary to its community use” – this could include buildings that would diminish the open nature of the site as long as the building is assessed as subservient to the remaining space.
- “alternative better provision can be secured, and an assessment has determined that the space is surplus to requirements” – it would seem that ‘has been’ should replace “can be” and ‘or’ replace “and”.
- It would appear that the spaces listed at C are not presently identified on the maps but could be, with a distinct identification, once the scale has been appropriately increased.

#### **Recommendation 24:**

*Under the heading “Policy MARL16: Protecting Valued Community Open Spaces”:*

*24.1 Within Policy MARL16:*

*24.1.1 In the opening sentence of element A replace “Map” with ‘Maps’.*

*24.1.2 Reword element B as follows:*

*‘Development within a Valued Community Open Space will only be supported if it preserves and where possible enhances its contribution to the health and wellbeing of visitors and residents, public access, and it is ancillary to the community use and retains the openness of the Space. Any loss of a Space will only be permitted where alternative better provision has been secured, or an assessment has demonstrated that the Space is surplus to requirements.’*

*24.2 Check and amend as required the boundary to the Space MARL16 17 at Cadley to exclude any private garden land.*

*24.3 Incorporate the Spaces identified under Policy MARL16 onto the same Policies Maps as Policy MARL14, ensuring that the boundaries are identified clearly, and add the boundaries, separately distinguished, for the spaces identified in element C of Policy MARL16.*

*As amended Policy MARL16 meets the Basic Conditions*

### **Policy MARL17: Conserving the Scenic Beauty of the AONB**

The NPPF (paragraph 176) says: “Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.” I note that two documents (and part of a third) have been submitted in support of Policy MARL17. The Qualifying Bodies have explained: “the SG generated its own information to shape its thinking about the policy [MARL17]. This supplemented the primary evidence provided by the Landscape Character Assessment reports published by Kennet and Wiltshire councils. The policy wording is derived from those reports but also reflected the SG work. The SG decided that it was not necessary to be as place specific in the submitted MANP as originally intended and therefore this policy is not shown on the Policies Maps.”

It would appear that the AONB are satisfied with the wording of Policy element A as they have not made a comment in their representation. However, a representation questions the relevance of this Policy as “Development within the AONB, and outside of the settlement boundaries, would need to have regard to the principles within the AONB Management Plan in any event.” I accept that it is reasonable for the Plan to pick up the issue that has the most widespread influence on planning for the Neighbourhood Area.

As the local authority notes, element B does not show regard to the NPPF paragraph 80; it is for the decision taker not the plan maker to determine whether the NPPF tests are met by any specific proposal.

#### **Recommendation 25:**

*Under the heading “Policy MARL17: Conserving the Scenic Beauty of the AONB”:*

*25.1 Delete element B of Policy MARL17 (and consequently remove the letter A from the first element).*

*25.2 In paragraph 5.56 and the NPPF paragraph number from “172” to ‘176’.*

*25.3 Delete paragraph 5.59 (renumbering subsequent paragraphs accordingly).*

As amended Policy MARL17 meets the Basic Conditions

### **Policy MARL18: Achieving Dark Skies**

The NPPF (paragraph 185c) says that planning policies and decisions should: “limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”. Given that the whole of the Neighbourhood Area lies within the AONB I queried whether the words “within or outside of the Marlborough development boundary, or the villages of Manton and Mildenhall” were necessary. A representation comments: “The issue we suggest should be one of specification and performance of lighting rather than resistance and prohibition.” The Qualifying Bodies responded: “The SG considers the wording to be fit for purpose, following a format of wording that is common to many neighbourhood plans and is encouraged by statutory consultees.” I agree that the Policy wording does not amount to “prohibition” and is a fair reflection of the NPPF expectation.

Policy MARL18 meets the Basic Conditions

### **Policy MARL19: Building to the PassivHaus Standard**

I was unable to identify the suggested piece of national Policy or Guidance that says that Neighbourhood Plans may impose their own energy performance standards. Additionally, it would appear that Policy MARL19 requires additions to the National and Local List of Planning Application Requirements; it is not open to Neighbourhood Plans – which must relate to the “the development and use of land” - to do that. In response the Qualifying

Bodies provided me with a draft paper with supporting documentation from the Centre for Sustainable Energy. The paper commences: “Whilst the building regulations are steadily strengthening regulatory requirements on development, they fall well short of requiring new development to be zero carbon, and many local plans lack such policies as well. As a result, many neighbourhood planning groups are keen to adopt binding energy efficiency policies in their plans, ideally requiring new development to be zero carbon.” However, speculation about the future direction of policy does not equate with guidance. The Government’s policy approach to the energy performance of buildings, ever since the 2015 Written Ministerial Statement and the Planning & Energy Act 2008, has consistently been that the required standards (and optional standards where applicable) will be set through the Building Regulations and not through the planning system. As the paper from the Centre for Sustainable Energy seems to acknowledge, there is already a pathway for the Building Regulations to become more demanding. Whilst there is nothing to stop Neighbourhood Plans encouraging higher standards – and Qualifying Bodies engaging with land interests to encourage their delivery – requirements are set at a national level through the Building Regulations.

The paper “Addressing climate change and biodiversity net gain through the Local Plan - raising the ambition” (January 2021), for the emerging Wiltshire Council Local Plan Review, at paragraph 4.10 notes “There are numerous construction methods in operation across the country – e.g. Modern Methods of Construction and Passivhaus. Such methods generally focus on the performance of construction materials to ensure that buildings are more energy efficient (the so called – fabric first model). However, without an agreed, clear direction set out in planning policy, problems with enforcement and objections on design grounds are possible.” These issues must also inform the policy wording. Consequently, some significant amendments are needed to Policy MARL19.

**Recommendation 26:**

*Under the heading “Policy MARL19: Building to the PassivHaus Standard”:*

*26.1 Within Policy MARL19:*

*26.1.1 In element A replace “must” with ‘are encouraged to’.*

*26.1.2 In element B, first sentence, replace “should” with ‘are encouraged to’.*

*26.1.3 Delete element C (and re-letter subsequent elements accordingly).*

*26.1.4 In element D replace “required” with ‘encouraged’.*

*26.1.5 Delete the first two sentences of element E and in the third sentence replace “shall” with ‘are encouraged to’.*

*26.2 Delete paragraph 5.63, which is now dated (and renumber subsequent paragraphs accordingly).*

*26.3 Amend paragraph 5.65 to read:*

*‘This policy is intended to encourage a step change in the energy performance of all new developments in the MANP area through the use of the Passivhaus or equivalent standard of building design. Along with the passive design capacity assessment, designers can demonstrate achievement of the standard using a design for performance methodology such as the Passivhaus Planning package or CIBSE TM34 Operational Energy.’*

*26.4 In paragraph 5.66 delete “which supports a similar level of intervention”.*

*26.5 In paragraph 5.67, first sentence, replace “requires” with ‘encourages’.*

*26.6 In paragraph 5.68 delete all but the first sentence.*

26.7 In paragraph 5.69, first sentence, replace “requires” with ‘expects’.

26.8 Delete paragraphs 5.70 & 5.71.

26.9 In paragraph 5.72, first sentence, replace “Clause D requires” with ‘Clause C encourages’ and delete the second sentence.

26.10 In paragraph 5.73 replace “Clause E requires an Energy Statement to be submitted” with ‘Clause D encourages the use of an Energy Statement’.

26.11 In paragraph 5.74 delete the second sentence.

As amended Policy MARL19 meets the Basic Conditions

## **6. Implementation**

The listing of related Town and Parish Council actions is helpful and appropriate. Planning Policy Guidance says: “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, [but] actions dealing with non land use matters should be clearly identifiable. For example, set out in a companion document or annex.” (Planning Policy Guidance Paragraph: 004 Reference ID: 41-004-20170728). I note the commitment to “a first review of the MANP after the adoption of the new Wiltshire Local Plan”. It would be up to the Qualifying Bodies whether they wished additionally to commit to working with land interests to assist the voluntary delivery of higher energy performance standards.

### **Policies Map & Insets**

As there are Policies Maps, plural, the title here should reflect that. Previous Recommendations have addressed modifications required to the maps for individual policies.

#### **Recommendation 27:**

*Amend the heading “Policies Map & Insets” (p58) to ‘Policies Maps and Insets’.*

### **Appendix A: Schedule of Local Heritage Assets (Policy Marl13)**

The lists for Manton and Mildenhall are not detailed in the Character/Design Studies in the same manner as the list for Marlborough; this would be helpful and match with the assertion that “The specific local heritage value of each asset is defined in those reports”.

#### **Recommendation 28:**

*Consider improving the Character/Design Studies to provide consistent detailing of the non-designated heritage assets.*

### **New Appendix B: Maps of Local Green Spaces**

As recommended above, a new Appendix B has been added.

### **Appendix B: Schedule of Evidence**

As noted earlier, the existing Appendix B is to be re-lettered as Appendix C and it would be helpful to the reader of the Plan, and avoid confusion, to have the documents listed here hyperlinked to the document location.

#### **Recommendation 29:**

*Amend the heading “Appendix B: Schedule of Evidence” to ‘Appendix C: Schedule of Evidence’ and add hyperlinks to copies of as many as possible of the documents listed.*

## **Other matters raised in Representations**

A few representations to the consultation on the submitted plan in accordance with Neighbourhood Planning Regulations included suggestions of other matters that the Plan might address. However, a neighbourhood plan must specifically address the development and use of land (Planning Practice Guidance ref: 41-004-20140306). And within that constraint there is no checklist of content that a Neighbourhood Plan must contain or subject matter that it must address; the range of content is entirely at the discretion of the local community and the local issues as they see them. It is not my role as Examiner to test the soundness of a Plan in terms of its coverage but rather to consider the content presented against the Basic Conditions. I cannot therefore recommend additional content in the manner that some representations have suggested.

Some representations indicate support for all or parts of the draft Plan and this helps in a small way to reassure that the extensive public consultation has been productive.

## **European Union (EU) and European Convention on Human Rights (ECHR) Obligations**

A further Basic Condition, which the Marlborough Area Neighbourhood Plan must meet, is compatibility with European Union (EU) and European Convention on Human Rights (ECHR) obligations.

Wiltshire Council, in its screening opinion of August 2019, following a consultation period with the statutory bodies, confirmed that a Strategic Environmental Assessment (SEA) under the Environmental Assessment of Plans and Programmes Regulations 2004 was required. The Councils appointed independent consultants, AECOM to undertake an SEA, which was scoped as a wider Sustainability Appraisal (SA/SEA) in agreement with the statutory bodies, as per the Regulations. A Draft SA/SEA ('Environmental Report') was published alongside the Pre-Submission Neighbourhood Plan for statutory consultation and a Final version (August 2021) was prepared to assess the provisions of the Submission Neighbourhood Plan. The Report concluded (in summary): "Overall, the SA predicts the likelihood for both positive and negative effects arising from plan implementation. The new high-quality housing, community infrastructure development and green infrastructure enhancements are likely to bring about significant benefits for communities, resident health and wellbeing and biodiversity .... The aspects of the MANP that contribute to negative outcomes relate to the permanent loss of greenfield/ agricultural land. This is anticipated as a result of four of the five site allocations proposed through the MANP .... From a mitigation perspective, the MANP performs positively in terms of delivering a step change in the energy performance of all new developments in the MANP area, notably incentivising the Passivhaus standard, to minimise the energy demand of buildings. In light of these local actions aimed at tackling climate change, neutral effects are anticipated overall."

As noted earlier, Natural England in their representation commented on the SEA: "We advise that the SA is flawed and consequently the allocation is not justified. Specifically, looking at the Table 4.6 of the 'Revised alternatives appraisal findings' Natural England does not agree with the determination for both option D and option E that there would be 'no significant effect' on biodiversity. The justification on page 117 makes no reference to potential impacts on bats." Once modified the Plan will not include the site off Salisbury Road and therefore the Natural England concern is resolved.

Historic England and the Environment Agency have also made comments about the extent to which the SA/SEA has been attentive to matters of their respective concern. It is unfortunate that the document is not more explicit about its attention to matters raised by the statutory consultation bodies. I also noted some other shortcomings in the final report.

However, the overall approach and nature of the conclusions and recommendations are, in my judgement, not significantly compromised by the matters noted here. The Report does what it says it sets out to do: “assess Neighbourhood Plans against a set of sustainability objectives developed in consultation with interested parties” (p i). It provides, in as an objective way as possible, an appraisal of identifiable harms and how their worst effects might be addressed. Plan modifications will impact on but not diminish its conclusions.

Wiltshire Council’s Habitat’s Regulations Assessment (HRA) Screening of August 2019 concluded that an appropriate assessment would not be necessary in relation to the European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Conservation of Habitats and Species Regulations 2010 (as amended). However, its rescreening of the Pre-Submission Neighbourhood Plan gave rise to a concern: “... that the development allocated and supported by policies MARL1 to MARL6 could give rise to a likely significant effect upon the Kennet and Lambourn Floodplain Special Areas of Conservation (SAC)”. Subsequently, the final screening report of August 2021 concluded that, in the light of the information provided by Thames Water, validated by the Environment Agency, it is possible to screen out the potential for significant effects on the Kennet and Lambourn Floodplain SAC of the final version of the MANP policies, either on their own or in combination with other policies and projects.

In regard to the European Convention on Human Rights, the Basic Conditions Statement that accompanies the Area Neighbourhood Plan states: “The Councils have been mindful of the fundamental rights and freedoms guaranteed under the European Convention on Human Rights in process of preparing the Neighbourhood Plan and considers [sic] that it complies with the Human Rights Act.” No evidence has arisen or been put forward to demonstrate that this is not the case.

Taking all of the above into account, I am satisfied that the Marlborough Area Neighbourhood Plan, as modified, is compatible with EU obligations and that it does not breach, nor is in any way incompatible with, the ECHR.

## Conclusions

This Independent Examiner's Report recommends a range of modifications to the Policies, as well as some of the supporting content, in the Plan. Modifications have been recommended to effect corrections, to ensure clarity and in order to ensure that the Basic Conditions are met. Whilst I have proposed a significant number of modifications, the Plan itself remains fundamentally unchanged in the role and direction set for it by the Qualifying Bodies.

I therefore conclude that, subject to the modifications recommended, the Marlborough Area Neighbourhood Plan:

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies of the Plan for the area;
- is compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations;
- does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017(d).

**On that basis I *recommend* to Wiltshire Council that, subject to the incorporation of modifications set out as recommendations in this report, it is appropriate for the Marlborough Area Neighbourhood Plan to proceed to referendum.**

### Referendum Area

As noted earlier, part of my Examiner role is to consider whether the referendum area should be extended beyond the Plan area. I consider the Neighbourhood Area to be appropriate and no evidence has been submitted to suggest that this is not the case. I therefore ***recommend*** that the Plan should proceed to referendum based on the Neighbourhood Area as approved by Wiltshire Council on 18<sup>rd</sup> November 2020.

**Recommendations:** (this is a listing of the recommendations exactly as they are included in the Report)

Rec	Text	Reason
1	<p>1.1 On the front cover, and in any other locations, remove references to “Submission Plan”.</p> <p>1.2 Under the headings “Contents” and “List of Policies” review the content for accuracy and in the light of my Recommendations below.</p> <p>1.3 Under the heading “1. Introduction &amp; Background”:            1.3.1 Amend the title of Plan A to read ‘Designated Neighbourhood Area’.</p> <p>1.3.2 Amend the first two bullet points of paragraph 1.5 to:            • Does the Plan have regard to national policy and guidance?            • Is the Plan in general conformity with the Wiltshire Core Strategy?</p> <p>1.3.3 Remove paragraphs 1.7 &amp; 1.8 referencing the ‘Planning for the Future’ White Paper; renumber subsequent paragraphs accordingly.</p> <p>1.4 Under the sub-heading “Sustainability Appraisal (including Strategic Environmental Assessment)”:            1.4.1 In the second sentence of paragraph 1.12 replace “has” with ‘have’.</p> <p>1.4.2 In the second sentence of paragraph 1.14 replace “Environmental” with ‘Environment’.</p>	For clarity and accuracy
2	<p>Under the heading “The Neighbourhood Plan Area”:            2.1 In paragraph 2.12 delete the unsourced “and is currently oversubscribed”.</p> <p>2.2 In paragraph 2.18 delete as irrelevant to the Plan content: “The service from Bedwyn requires a joined-up transport infrastructure and timetables for both rail and bus services as the current provisions are not meeting local needs”.</p> <p>2.3 In paragraph 2.19 after “at peak times there are parking shortages” add ‘(Marlborough Neighbourhood Plan Car Parking Study, 2017)’.</p> <p>2.4 In paragraph 2.24 between “There is a local perception” and “that the imbalance of local housing stock” add ‘, apparent from public consultation on this Plan,’.</p> <p>2.5 In paragraph 2.24 after “as Wiltshire Council’s Core Strategy noted” add ‘for Wiltshire (para 2.13 p19)’.</p> <p>2.6 In paragraph 2.25 replace “The average house price in 2015 in Marlborough was £318,450. This was considerably higher than the Wiltshire average of £255,060 and was highest of Wiltshire’s 20</p>	For clarity and accuracy

	<p>community areas” with the update provided by the Qualifying Body: ‘The average house price in Marlborough is between 40% and 50% higher than the average property price in Wiltshire as a whole (Source: Zoopla, 5 May 2021), the breakdown by type of house is: Terraced +46%, Semi-detached +43%, Detached +52%.’</p> <p>2.7 In paragraph 2.25 provide a source reference for each element of “The present population is estimated to be around 9,200 following inward migration as a result of recent completed housing developments between 2011 and the present” or delete.</p>	
3	<p>Under the heading “3. Planning Policy Context”:</p> <p>3.1 Add to paragraph 3.6: ‘Within the Plan it is noted (Table 4.9) that the “Indicative Housing Requirement to 2026” for Marlborough has already been exceeded by 3.1%.’</p> <p>3.2 Replace paragraph 3.10 with the following: ‘Wiltshire Council has subsequently confirmed that, based on the emerging spatial strategy, there is no strategic necessity for 245 open market dwellings over the period of the draft Plan to 2036 in order to meet the assessed need of the Housing Market Area. Assessed need would be met by a contribution of a minimum of 50 dwellings, the preferred focus for growth being Royal Wotton Bassett.’</p> <p>3.3 Add to paragraph 3.12: ‘However, from research conducted specifically for the MANP (Affordable Housing Needs in Marlborough Area Neighbourhood Plan, Cobweb Consultation, June 2020 update), the estimate of affordable housing requirement for Marlborough is higher than that for the area which was proposed by WC. The exact process by which WC arrived at its estimate of affordable provision for the Marlborough area is not set out but the figure probably takes into account WC’s view of land supply and environmental constraints. The Neighbourhood Plan has therefore set out to maximise land supply for housing whilst seeking to respect the environmental constraints of the AONB. As national Planning Guidance confirms, “A neighbourhood plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy” (Reference ID: 41-044-20190509).’</p>	For clarity and accuracy and to meet Basic Conditions 1 & 3
4	Delete the heading “Land Rear of Salisbury Road” and the related Policy content, including the map.	To meet Basic Conditions 1 & 3
5	<p>Under the sub-heading “Land at Barton Dene” reword the Policy as follows (as a general principle, the use of letters or numbers for Policy paragraphs, rather than bullet points, will allow the content of Policies to be readily referenced):</p> <p>‘Within the site boundary shown on the adjacent plan, proposals will be supported for up to 40 homes on a developable area of no more than 1.5 Ha, limited to ensure that the development retains a natural setting, and subject to the following:</p>	For clarity and to meet Basic Conditions 1, 2 & 3

	<p>a) Land shall be safeguarded adjoining the existing leisure centre, as illustrated on the adjacent plan, for the potential provision of new medical facilities to serve the town, this safeguarding will be reviewed within the first review of the Neighbourhood Plan;</p> <p>b) The proposals shall include for 40% affordable housing;</p> <p>c) The layout and form of development shall be designed in such a way as to conserve the landscape and scenic beauty of the AONB and to protect and enhance the setting of Barton Farm House and Barton Farm Stables; the northern boundary has a high sensitivity, and this should be reflected in the finished building heights and boundary treatment;</p> <p>d) A Landscape Visual Impact Assessment, including consideration of heritage assets, shall inform the proposals and accompany the submission;</p> <p>e) Key existing green infrastructure, including mature trees, within the site shall be retained and protected from the impacts of development, subject to practical limitations;</p> <p>f) Safe vehicular, cycle and pedestrian access must be achieved, with appropriate mitigation; this must not compromise access to, or the continued presence and operation of, the existing leisure centre;</p> <p>g) Interconnectivity with the existing footpath network should be achieved whilst respecting existing rights of way; and</p> <p>h) A biodiversity strategy shall demonstrate how the proposal will deliver a biodiversity net gain.'</p>	
6	<p>Under the sub-heading "Land off Cherry Orchard" reword the Policy as follows:  'Within the site boundary shown on the adjacent plan, proposals will be supported for at least 15 homes on a developable area of no more than 1.0 Ha, limited to ensure that the development retains a natural setting, and subject to the following:</p> <p>a) The proposals shall include for 40% affordable housing;</p> <p>b) The scheme shall have a highways access on to Cherry Orchard only with appropriate mitigation to assure safe vehicular, cycle and pedestrian access;</p> <p>c) The layout shall retain public right of way MARL30 through and on the boundary of the site;</p> <p>d) The issues arising from part of the site's location within the Marlborough public water Source Protection Zone 1 must be satisfactorily addressed;</p> <p>e) A biodiversity strategy shall include for retaining the green infrastructure along its south-western boundary to protect the habitat corridor (the former railway line) towards the Savernake Forest SSSI</p>	For clarity and accuracy and to meet Basic Conditions 1, 2 & 3

	<p>to its south, as well as demonstrating proposals to deliver a biodiversity net gain; and</p> <p>f) The layout and form of development shall be designed in such a way as to conserve the landscape and scenic beauty of the AONB.'</p>	
7	<p>Under the sub-heading "Land at Kelham Gardens":</p> <p>7.1 Provide an identifiable boundary for the site being allocated.</p> <p>7.2 Reword the Policy as follows:  'Within the site boundary shown on the adjacent plan, proposals will be supported for a flatted scheme of up to 10 homes on a developable area of approx. 0.1 Ha, subject to the following:</p> <p>a) The proposals shall include for 40% affordable housing;</p> <p>b) The buildings shall be no more than 2.5 storeys in height;</p> <p>c) The scheme shall have a highway access on to Kelham Gardens only;</p> <p>d) The risk from flooding both within the site and beyond the site arising from the development must be addressed as required by national policy and appropriate mitigation measures included through a sequential approach to the development layout as part of a site-specific Flood Risk Assessment; and</p> <p>e) A biodiversity strategy shall demonstrate how the proposal and any works necessary to address ground contamination will avoid any harmful effects on the River Kennet SSSI to its immediate south.'</p>	For clarity and accuracy and to meet Basic Conditions 1, 2 & 3
8	<p>Under the sub-heading "D. For the avoidance of doubt, ...", remove the second sentence.</p>	For clarity and accuracy
9	<p>Under the heading "Policy MARL1: Delivering Affordable Homes in Marlborough":</p> <p>9.1 Amend paragraph 5.6 to read: 'This policy allocates three sites in Marlborough to deliver a total of approximately 26 affordable homes from a total of approximately 65 homes.'</p> <p>9.2 Amend the third sentence of paragraph 5.8 to replace "two of the four sites are outside but adjoin its development boundary" with 'one of the three sites is outside but adjoins its development boundary' and the NPPF paragraph reference from "172" to '176'.</p> <p>9.3 Replace the fourth sentence of paragraph 5.9 with: 'It has been demonstrated that there are insufficient available and suitable sites of a lower flood risk than this site to meet the Marlborough housing requirement, thus the sequential test is passed. As it is 'not possible for development to be located in areas with a lower risk of flooding taking into account wider sustainable development objectives (as per NPPF paragraph 163)', the exception test has been applied.'</p> <p>9.4 Replace paragraph 5.10 with: 'The site at Barton Dene represents a modest extension of the development boundary in a sustainable</p>	For clarity and accuracy and to meet Basic Condition 1

	<p>location with non-car accessibility to the town centre. The site has been assessed as ‘major development’ in the AONB, as per NPPF paragraph 172, and it has been concluded that the public benefits of the development – in this instance the delivery of vital affordable homes – outweigh its detrimental effects on the local environment and landscape, the effects of which are assessed as capable of appropriate mitigation.’</p> <p>9.5 In paragraph 5.11, first sentence, replace “130” with ‘65’ and replace “greater” with ‘significant’; delete the third sentence commencing “The Rear of Salisbury Road scheme ...”.</p>	
10	<p>Under the heading “Policy MARL2: Encouraging Affordable Homes in Mildenhall”:</p> <p>10.1 Reword Policy MARL2 as follows (for consistency with my recommendations for MARL1 I am showing letters but numbers would be equally acceptable):  ‘Proposals to deliver affordable homes for first-time buyers in Mildenhall are encouraged provided:</p> <p>a) The new housing respects the village character and form and is provided as infill within the existing built area;</p> <p>b) All of the homes have two or three bedrooms only and are either discounted market sales housing or other affordable routes to first-home ownership;</p> <p>c) The design and layout of the scheme sustains and enhances the significance of the Mildenhall Conservation Area and the setting of other heritage assets as defined in Policy MARL12;</p> <p>d) The layout and form of housing is designed to conserve the designated landscape of the North Wessex Downs Area of Outstanding Natural Beauty and its setting, and where possible enhance its locally distinctive characteristics, and</p> <p>e) Where appropriate to the location, a landscape scheme is designed to support the transition from the built area of the village into the surrounding countryside.’</p> <p>10.2 In paragraph 5.12 replace “an affordable housing scheme” with ‘infill first-home’ affordable housing’.</p> <p>10.3 In paragraph 5.13 delete the third sentence.</p> <p>10.4 In paragraph 5.14 delete the second sentence.</p> <p>10.5 Replace paragraph 5.15 with: ‘This Policy is a locally appropriate response to Core Policy 44 which says “a proactive approach to the provision of affordable housing will be sought in conjunction with parish councils and working with local communities and other parties.”</p>	<p>For clarity and accuracy and to meet Basic Conditions 1 &amp; 3</p>
11	<p>Under the heading “Policy MARL3: Meeting Local Housing Needs”:</p> <p>11.1 Reword Policy MARL3 as follows:</p>	<p>For clarity and</p>

	<p>'To be supported, development proposals for the sites allocated at MARL1 and for windfall sites within the designated Marlborough Settlement Boundary must address evidenced local housing needs and maximise their contribution of two and three bed affordable housing, wherever possible exceeding the levels stipulated in Wiltshire Council Policy. Specialist accommodation for elderly people is not considered a current priority.'</p> <p>11.2 Amend paragraph 5.16 by replacing "it discourages proposals for any form of housing intended for older people" with 'it seeks to maximise the proportion of housing that is affordable and to discourage proposals for any form of housing intended solely for older people'.</p> <p>11.3 Delete the last two sentences of paragraph 5.19.</p>	accuracy and to meet Basic Condition 1
12	<p>Under the heading "Policy MARL4: Supporting a Thriving Town Centre":</p> <p>12.1 Amend the Policy to add a new element C (and re-letter subsequent paragraphs): 'The Town Centre will be an appropriate location for local community uses and some learning and non-residential institution uses which benefit from its ease of access.'</p> <p>12.2 In paragraph 5.22 replace "The retail evidence base has been used to define" with 'The Kennet Local Plan defined'.</p> <p>12.3 In paragraph 5.26 the reference to "MARL14" should be corrected to 'MARL13'.</p>	For clarity and accuracy and to meet Basic Condition 1
13	<p>Under the heading "Policy MARL5: Improving Public Parking":</p> <p>13.1 Amend element 1 of the Policy to remove "kerbs," and correct element 5 to start with a capital letter.</p> <p>13.2 Amend the Policies Map to identify with the red line only that area not presently allocated for parking.</p>	For clarity and accuracy and to meet Basic Condition 1
14	<p>Within "Policy MARL6: Delivering New Cemetery Land" replace the second sentence with: 'The laying out of the land must conserve the designated landscape of the North Wessex Downs Area of Outstanding Natural Beauty and its setting.'</p>	For clarity and to meet Basic Condition 1
15	<p>Within "Policy MARL7: Protecting &amp; Supporting Community Facilities":</p> <p>15.1 Move the sentence "Development proposals to sustain or extend the viable use of existing community facilities, and the development of new facilities, will be supported" from element B to the beginning of element A.</p> <p>15.2 Add to element B: 'or a change of use or a mixed use will help to retain the community benefit of a building'.</p>	For clarity and accuracy and to meet Basic Condition 1
16	<p>Within "Policy MARL8: Protecting and Improving Sports Facilities", in element C, replace "has received planning permission" with ', at least as conveniently located and well-equipped, is provided'.</p>	For clarity and accuracy

		and to meet Basic Condition 1
17	<p>17.1 Within the heading “Policy MARL 9. A Design Code for the Marlborough Conservation Area” replace “A Design Code” with ‘Design Guidance’.</p> <p>17.2 Within Policy MARL 9 delete two uses of “and its setting”.</p>	For clarity and accuracy and to meet Basic Condition 1
18	Within the heading “Policy MARL10: A Design Code for Marlborough’s Areas of Special Quality” replace “A Design Code” with ‘Design Guidance’.	For clarity and accuracy and to meet Basic Condition 1
19	Within the heading “Policy MARL11: A Design Code for Manton” replace “A Design Code” with ‘Design Guidance’.	For clarity and accuracy and to meet Basic Condition 1
20	Within the heading “Policy MARL12: A Design Code for Mildenhall” replace “A Design Code” with ‘Design Guidance’.	For clarity and accuracy and to meet Basic Condition 1
21	<p>Under the heading “MARL13: Protecting Local Heritage Assets”:</p> <p>21.1 Reword Policy MARL13 as follows:  ‘A. The local non-designated Heritage Assets are identified on the list in Appendix A. Development proposals that directly or indirectly affect these non-designated heritage assets will be assessed with a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset.</p> <p>B. At the North West boundary of the Neighbourhood Area, development proposals must assess and address their impact on the Stonehenge &amp; Avebury World Heritage Site and its setting.’</p> <p>21.2 Add to the cover of the “Savernake Parish Local Heritage Assets Study July 2021” details of the independent vetting of the content.</p>	For clarity and accuracy and to meet Basic Condition 1
22	<p>Under the heading “Policy MARL14: Protecting and Improving Green Infrastructure”:</p> <p>22.1 Within Policy MARL14:</p> <p>22.1.1 In element A replace the first sentence with: ‘The Green Infrastructure Network, as shown on the Policies Map, is recognised for its existing value and further potential providing open space and ecological connectivity.’</p> <p>22.1.2 In element C, in the first sentence, replace “land” with ‘green space’ and replace the last sentence with ‘Development proposals that will lead to the improvement and extension of the Network will be supported in principle.’</p>	For clarity and accuracy and to meet Basic Condition 1

	<p>22.1.3 Reword element D as follows: ‘Proposals that will contribute to sequestering carbon through appropriate woodland planting and other effective means proportionate to the scale and nature of the proposal will be supported, whether delivered on the proposal site or at another agreed location.’</p> <p>22.2 Amend the related Policy Maps to exclude all green areas that were identified in relation to Policy MARL17.</p>	
23	<p>Under the heading “Policy MARL15: Protecting Local Green Spaces”:</p> <p>23.1 Amend the opening sentence of the Policy to ‘Local Green Spaces are designated in the locations listed below and shown on the Policies Map and in detail in Appendix B’ (re-letter the existing Appendix B accordingly).</p> <p>23.2 In paragraph 5.52 amend “paragraphs 99 - 100 of the NPPF” to read ‘paragraphs 101 - 103 of the NPPF’.</p> <p>23.3 Amend the Policies Map to remove the Space at Marlborough Green which is not being designated; also amend the boundary of the Salisbury Road Recreation Ground Local Green Space to exclude the surfaced, entrance car park.</p> <p>23.4 Add an Appendix B to provide individual maps of the designated spaces at a scale that allows the boundary to be identified with absolute clarity.</p>	For clarity and accuracy and to meet Basic Condition 1
24	<p>Under the heading “Policy MARL16: Protecting Valued Community Open Spaces”:</p> <p>24.1 Within Policy MARL16:</p> <p>24.1.1 In the opening sentence of element A replace “Map” with ‘Maps’.</p> <p>24.1.2 Reword element B as follows:  ‘Development within a Valued Community Open Space will only be supported if it preserves and where possible enhances its contribution to the health and wellbeing of visitors and residents, public access, and it is ancillary to the community use and retains the openness of the Space. Any loss of a Space will only be permitted where alternative better provision has been secured, or an assessment has demonstrated that the Space is surplus to requirements.’</p> <p>24.2 Check and amend as required the boundary to the Space MARL16 17 at Cadley to exclude any private garden land.</p> <p>24.3 Incorporate the Spaces identified under Policy MARL16 onto the same Policies Maps as Policy MARL14, ensuring that the boundaries are identified clearly, and add the boundaries, separately distinguished, for the spaces identified in element C of Policy MARL16.</p>	For clarity and accuracy and to meet Basic Condition 1

25	<p>Under the heading “Policy MARL17: Conserving the Scenic Beauty of the AONB”:</p> <p>25.1 Delete element B of Policy MARL17 (and consequently remove the letter A from the first element).</p> <p>25.2 In paragraph 5.56 and the NPPF paragraph number from “172” to ‘176’.</p> <p>25.3 Delete paragraph 5.59 (renumbering subsequent paragraphs accordingly).</p>	For clarity and accuracy and to meet Basic Condition 1
26	<p>Under the heading “Policy MARL19: Building to the PassivHaus Standard”:</p> <p>26.1 Within Policy MARL19:</p> <p>26.1.1 In element A replace “must” with ‘are encouraged to’.</p> <p>26.1.2 In element B, first sentence, replace “should” with ‘are encouraged to’.</p> <p>26.1.3 Delete element C (and re-letter subsequent elements accordingly).</p> <p>26.1.4 In element D replace “required” with ‘encouraged’.</p> <p>26.1.5 Delete the first two sentences of element E and in the third sentence replace “shall” with ‘are encouraged to’.</p> <p>26.2 Delete paragraph 5.63, which is now dated (and renumber subsequent paragraphs accordingly).</p> <p>26.3 Amend paragraph 5.65 to read: ‘This policy is intended to encourage a step change in the energy performance of all new developments in the MANP area through the use of the Passivhaus or equivalent standard of building design. Along with the passive design capacity assessment, designers can demonstrate achievement of the standard using a design for performance methodology such as the Passivhaus Planning package or CIBSE TM34 Operational Energy.’</p> <p>26.4 In paragraph 5.66 delete “which supports a similar level of intervention”.</p> <p>26.5 In paragraph 5.67, first sentence, replace “requires” with ‘encourages’.</p> <p>26.6 In paragraph 5.68 delete all but the first sentence.</p> <p>26.7 In paragraph 5.69, first sentence, replace “requires” with ‘expects’.</p> <p>26.8 Delete paragraphs 5.70 &amp; 5.71.</p> <p>26.9 In paragraph 5.72, first sentence, replace “Clause D requires” with ‘Clause C encourages’ and delete the second sentence.</p>	For clarity and accuracy and to meet Basic Condition 1

	<p>26.10 In paragraph 5.73 replace “Clause E requires an Energy Statement to be submitted” with ‘Clause D encourages the use of an Energy Statement’.</p> <p>26.11 In paragraph 5.74 delete the second sentence.</p>	
27	Amend the heading “Policies Map & Insets” (p58) to ‘Policies Maps and Insets’.	For clarity and accuracy
28	Consider improving the Character/Design Studies to provide consistent detailing of the non-designated heritage assets.	For clarity and accuracy
29	Amend the heading “Appendix B: Schedule of Evidence” to ‘Appendix C: Schedule of Evidence’ and add hyperlinks to copies of as many as possible of the documents listed.	For clarity and accuracy