

Marsh Gibbon Parish Council

Marsh Gibbon Neighbourhood Development Plan

A Report to Aylesbury Vale District Council of the Independent
Examination of the Marsh Gibbon Neighbourhood Development
Plan

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1. Neighbourhood Planning

The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”¹

Neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.

The Marsh Gibbon Neighbourhood Plan (the Neighbourhood Plan) is nationally one of the earliest neighbourhood development plans to progress. The Neighbourhood Plan has been prepared by Marsh Gibbon Parish Council (the Parish Council), a qualifying body able to lead the preparation of a neighbourhood plan.² Work on the production of the plan has been progressed through the Parish Plan Action Committee (PAC) established by the Parish Council. PAC is stated to comprise five parish councillors and two co-opted volunteer members. The submission draft of the Neighbourhood Plan was approved by the Parish Council on 10 June 2014.

2. Independent Examination

This report sets out the findings of the independent examination into the Neighbourhood Plan.³ The report includes a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. Aylesbury Vale District Council (the District Council) will decide what action to take in response to the recommendations in this report.

The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission plan. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be ‘made’ by the District Council. Once ‘made’ the Neighbourhood Plan will come into force and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area.

¹ Paragraph 183 National Planning Policy Framework (2012)

² Section 61F(1) Town and Country Planning Act 1990 as read with section 38C(2)(a) Planning and Compulsory Purchase Act 2004

³ Paragraph 10 Schedule 4B Town and Country Planning Act 1990

I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have more than thirty-five years professional planning experience and have held national positions and local authority Chief Planning Officer posts.

As independent examiner I am required to produce this report and must recommend either:

- (a) that the Neighbourhood Plan is submitted to a referendum, or
- (b) that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
- (c) that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements

I make my recommendation in this respect and in respect to any extension to the referendum area,⁴ in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.⁵

In my examination of the Neighbourhood Plan in addition to those matters already identified in this report I am also required to check whether:

- the policies of the Neighbourhood Plan relate to the development and use of land for a designated neighbourhood area;⁶
- the Neighbourhood Plan meets the requirement to specify the period to which it has effect;⁷
- the Neighbourhood Plan does not include provision about excluded development⁸

Subject to the contents of this report I am able to confirm that I am satisfied that each of the above requirements has been met.

⁴ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

⁵ Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

⁶ Section 38A(2) Planning and Compulsory Purchase Act 2004

⁷ Section 38B(1)(a) Planning and Compulsory Purchase Act 2004

⁸ Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.⁹ All parties have had opportunity to submit written representations and those representations are open to all to view.

The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case.

In reviewing the written representations I have not seen any requests for a hearing. I am of the opinion that all parties have had full opportunity to register their views and put their case forward. The Neighbourhood Plan and the representations have been written precisely and with clarity. There are no issues including those arising from representations in respect of which I require further clarification. I took the decision that a hearing was not necessary and proceeded by examination of written representations.

3. The Plan area

The Neighbourhood Plan relates to the area that was designated by Aylesbury Vale District Council as a neighbourhood area on 12 February 2013. The submission draft of the Neighbourhood Plan includes a map which shows the plan area is coterminous with the Marsh Gibbon Parish Council boundary. The Neighbourhood Plan does not relate to more than one neighbourhood area,¹⁰ and no other neighbourhood development plan has been made for the neighbourhood area.¹¹ All requirements relating to the plan area have been met.

4. Basic conditions

An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.¹² A neighbourhood plan meets the basic conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
- the making of the neighbourhood plan contributes to the achievement of sustainable development,

⁹ Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

¹⁰ Section 38B(1)(c) Planning and Compulsory Purchase Act 2004

¹¹ Section 38B(2) Planning and Compulsory Purchase Act 2004

¹² Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects¹³

An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.¹⁴ All of these matters are considered in the later sections of this report titled 'The Neighbourhood Plan – Taken as a whole' and 'The Neighbourhood Plan – Neighbourhood Plan policies'.

Apart from the correction of minor errors (presented at Appendix 1 to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the basic conditions.

5. Unaccompanied visit and documents

In undertaking this examination I visited the Marsh Gibbon area. During this visit I was unaccompanied.

I have given consideration to each of the following documents in so far as they have assisted me in considering whether the Neighbourhood Plan meets the basic conditions and is compatible with the Convention rights:

- Marsh Gibbon Neighbourhood Development Plan (NDP) Submission Draft (10 June 2014)
- Marsh Gibbon NDP Basic Conditions Statement (10 June 2014)
- Marsh Gibbon NDP Consultation Statement (10 June 2014)
- Marsh Gibbon NDP Evidence Base Report (10 June 2014)
- Representations received during the publicity period

¹³ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

¹⁴ The Convention rights has the same meaning as in the Human Rights Act 1998

- National Planning Policy Framework (27 March 2012) [In this report referred to as the Framework]
- Technical Guidance to the National Planning Policy Framework (27 March 2012)
- Department for Communities and Local Government Planning Practice Guidance web-based resource (first fully launched 6 March 2014) [In this report referred to as the Guidance]
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Localism Act 2011
- Neighbourhood Planning (General) Regulations 2012 [In this report referred to as the Regulations]
- Aylesbury Vale District Local Plan 2004 (saved policies)

6. Consultation

The Parish Council's Plan Action Committee (PAC) began work on the preparation of the Neighbourhood Plan in 2012. This work built on the community-led plan 'Marsh Gibbon – Our Future' which had been adopted by the Parish Council on 8 March 2011, and a Housing Consultation undertaken in late 2011. The Consultation Statement confirms PAC meetings have been open to the public, minutes available online, and the Committee has reported regularly to the Parish Council. These are all features of good practice.

I take this opportunity to commend the considerable effort that has been expended voluntarily in preparing a neighbourhood plan that is concise and produced to a high quality of presentation.

A draft plan was distributed to over 400 homes and businesses in the village and surrounding area and made available online in October 2013. A public meeting involving workstations and a question and answer session was held. This input, and that made in written and online questionnaire responses, was considered and some revisions to the plan made.

A survey of housing needs involved questionnaires being delivered to every home in the parish in January 2014. The resulting report was considered by PAC and the recommendations of the Committee were accepted by the Parish Council in March 2014.

Regulation 14 pre-submission consultation was undertaken between 17 January and 28 February 2014. Direct consultations were undertaken and the plan document was available for download from the Parish Council website, with a link from the District Council website, and printed copies were also available in three public locations. Consideration of responses and consultation with interested parties led to revisions to the Plan.

The Submission Plan approved by the Parish Council on 10 June 2014 and submitted to the District Council has been the subject of a Regulation 16 consultation period between 1 July and 26 August 2014. A total of 26 representations, including a petition carrying the names, addresses and signatures of 171 residents of the plan area, were submitted during this consultation period all of which I have taken into consideration in preparing this report even though they may not be referred to in whole or in part. Two additional representations were received by the District Council after the consultation period had closed. As there were extenuating circumstances in both cases I looked at the content and observed that the representations duplicated other representations that had been submitted during the consultation period. I took the decision to not take into consideration the late representations.

The reduction of areas covered by the two proposed local green space designations following the pre-submission consultation has, during the Submission Plan consultation period, resulted in a significant volume of representations opposed to this adjustment. Several parties put forward a view that the reduction of areas covered by the two local green space policies is a significant late change that has not been adequately consulted on. This has been described in negative terms in several representations.

It is within the remit of the Parish Council as Qualifying Body to make adjustments to the Neighbourhood Plan as plan preparation progresses. Consultation and publicity requirements have been met and a Consultation Statement has been submitted. Whilst the sequence of events has left some parties dissatisfied with the process it is not currently within the role of an independent examiner to assess whether the scope and nature of consultation has been adequate, and that the results of the consultation have been considered in developing the Submission Plan. The role of the independent examiner is to consider whether the Neighbourhood Plan meets the basic conditions and is compatible with the Convention rights. I consider the Convention rights, and whether the plan policies, including the local green space designation policies, meet the basic conditions later in this report.

7. The Neighbourhood Plan – Taken as a whole

I note from observations submitted by Aylesbury Vale District Council during the consultation period that the District Council has worked closely with Marsh Gibbon Parish Council and that the District Council commends the Parish Council on a comprehensive and well thought out plan. The District Council states *“AVDC believes that the requirements of the ‘basic conditions’ have been met in terms of having appropriate regard to national policy; contributing to the achievement of sustainable development; being in general conformity with the strategic policies in the development plan; and being compatible with human rights requirements and EU obligations.”* *“The Local Planning Authority would reiterate its support for the Marsh Gibbon Neighbourhood Plan, and the work done to reach this stage.”*

The plan period of the Marsh Gibbon Neighbourhood Plan is clearly stated in the introduction section of the submission draft to be 2014 to 2031 which satisfies that legal requirement.¹⁵ The introduction also concisely establishes the purpose and strategic context of the plan. The ‘our village’ section helpfully describes the principal characteristics of the area.

This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this.

EU obligations, habitats, and human rights requirements

I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).¹⁶ I have seen nothing in the submission draft of the Neighbourhood Plan that indicates any breach of the Convention. Although no equalities impact assessment has been undertaken the submission draft of the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

The objective of EU Directive 2001/42 is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are*

¹⁵ Section 38B(1)(a) Planning and Compulsory Purchase Act 2004

¹⁶ The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

likely to have significant effects on the environment.” The Neighbourhood Plan falls within the definition of ‘plans and programmes’¹⁷ as the Local Planning Authority is obliged to adopt the plan following a positive referendum result.¹⁸

Aylesbury Vale District Council has issued a Strategic Environmental Assessment Screening Report dated February 2014. The report concludes *“Having reviewed the criteria Aylesbury Vale District Council concludes that the Marsh Gibbon Neighbourhood Development Plan is not likely to have significant environmental effects beyond those expected by ‘strategic’ district-wide policies of the Local Plan, and therefore this does not trigger a need for a Strategic Environmental Assessment.”* I have seen evidence of consultation with the Environment Agency, Natural England and English Heritage.

The Basic Conditions Statement approved by the Parish Council on 10 June 2014 states *“The Neighbourhood Area is not in close proximity to any European designated nature sites and so does not require an Appropriate Assessment under the EU Habitats Regulations.”* The statement is linked to a footnote which states *“Refer to the Aylesbury Vale District Council’s Habitats Regulations assessment/Appropriate Assessment Stage1 Screening Report undertaken for the Vale of Aylesbury Plan Strategy Pre-Submission Plan October 2012.”* I have not seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site.

I conclude that the neighbourhood plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

Regard to national policies and advice contained in guidance issued by the Secretary of State, and contribution to the achievement of sustainable development

The Neighbourhood Plan includes *“our vision for Marsh Gibbon in 2031”* to be *“a beautiful, green, friendly village where people can fulfil their ambitions for home, work, and leisure in a safe and treasured environment.”*

The Neighbourhood Plan seeks to achieve the following objectives:

- facilitate provision of housing for the elderly and the young, that they can afford

¹⁷ Defined in Article 2(a) of Directive 2001/42

¹⁸ Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

- facilitate land being available to accommodate jobs for local people
- balance this potential growth with the need to accommodate jobs for local people
- balance this potential growth with the need to protect the village environment
- protect open spaces and allotments; and enhance play areas
- support the expansion of the school, with space for playing field and car parking
- help to secure the future of a local shop
- slow down traffic in the village and make safe provision for pedestrians
- make appropriate provision for a changing agricultural economy

At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.¹⁹ The vision and objectives are consistent with, and have regard to, national policies and advice and illustrate how the Neighbourhood Plan aims to contribute to the achievement of sustainable development. The vision and objectives sit comfortably with the Framework aims of delivering a wide choice of high quality homes; of building a strong competitive economy and supporting a prosperous rural economy; of conserving and enhancing the historic environment; and promoting healthy communities. The Plan specifically states *“This Plan seeks proportionate and appropriate opportunities to meet the development needs of our area by promoting sustainable development:*

- *by assuming growth rate which is informed by recent forecasts and projections but also builds in flexibility during the plan period;*
- *by allowing for some building beyond the current village boundaries;*
- *by seeking new homes for young families;*
- *by seeking new homes for elderly downsizers;*
- *by providing affordable homes;*
- *by maintaining and respecting the existing character of the village through the protection of valued green spaces within the heart of the village and requiring new developments to be of high quality design that respects the existing character of the village.”*

The introductory sections of the Plan *“Why this Plan?”* and *“What is the plan about?”* firmly establish the context of the plan within national policy and demonstrates an appropriate approach to balancing protection of the village with the enabling of appropriate development to meet local need for homes and jobs.

Subject to my recommended modifications of the Submission Plan relating to specific policies, as set out later in this report, I find that the Neighbourhood Plan, taken as a whole, has regard to national policies and advice contained in guidance

¹⁹ Paragraph 14 National Planning Policy Framework 2012

issued by the Secretary of State and contributes to the achievement of sustainable development.

General conformity with the strategic policies contained in the Development Plan for the area

The Framework states that the ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies.²⁰

Statutory weight is given to neighbourhood development plans that are in general conformity with the strategic policies of the development plan for the local area, and have appropriate regard to national policy. This ensures neighbourhood plans cannot undermine the overall planning and development strategy set out in the development plan for the local area.

The District Council has advised me that locally the Development Plan consists of:

- The saved policies of the Aylesbury Vale District Local Plan (AVDLP) 2001 - 2011 (2004);
- the Buckinghamshire Minerals and Waste Local Plan 2004-2016 (2006);
- the Buckinghamshire Mineral and Waste Core Strategy DPD (2012)

The Minerals and Waste plans do not appear to impact in any particular way on the Neighbourhood Plan and the Neighbourhood Plan does not include matters that relate to policies of those plans. Additionally minerals and waste are excluded matters for the purposes of policy making in Neighbourhood Plans. I will take this opportunity to confirm that the Neighbourhood Plan does not relate to any excluded matters, meeting that requirement.

As the saved policies of the Aylesbury Vale District Local Plan (AVDLP) 2001 - 2011 (2004) predate the Framework, the Framework takes precedence where there is a conflict. Policies not saved cannot now be used in determining planning applications nor be taken into account when assessing whether a Neighbourhood Plan is in general conformity with the strategic policies of the Development Plan. The Basic Conditions Statement lists as strategic policies all of the saved policies which are applicable to the whole district²¹, including Marsh Gibbon, and all of the policies for

²⁰ Paragraph 184 National Planning Policy Framework 2012

²¹ Except policy GP3 which is stated to have been superseded by the Framework

rural areas which are not location specific. The Basic Conditions Statement includes a brief statement in respect of each of the saved policies to demonstrate how the Neighbourhood Plan “conforms with AVDC policies”.

The Basic Conditions require assessment whether a Neighbourhood Plan is “in general conformity with strategic policies” contained in the Development Plan for the area. That Plan is the saved policies of the Aylesbury Vale District Local Plan (AVDLP) 2001 - 2011 (2004). I am satisfied that the Neighbourhood Plan is in general conformity with strategic policies contained in the Development Plan for the area.

Monitoring and review

The Neighbourhood Plan contains a statement that the Parish Council will report on how the plan is being implemented and will review the Plan every five years to secure the views of local residents and to update the Plan if necessary. This commitment to monitoring and review represents good practice.

8. The Neighbourhood Plan – Neighbourhood Development Plan policies

The Submission Plan includes twenty-two policies categorised as:

- Protecting and enhancing the village environment
- Housing
- Employment
- Car parking
- Traffic and transport
- Community facilities in buildings
- Community recreation areas
- Our natural environment
- Infrastructure

If to any extent a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that the policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn.

Protecting and enhancing the village environment

The Senior Archaeology Planning Officer of Buckinghamshire County Council has in a representation welcomed policies MG1–MG4 as making strong reference to the village’s historic character. He has encouraged consideration of other heritage assets particularly listed buildings and ridge and furrow earthworks. He has recommended inclusion of an additional policy to sustain local distinctiveness and character and protect the historic environment and assets. As these suggestions are not required in order to meet the basic conditions it is not appropriate that I recommend modification of the plan on this basis. English Heritage welcomes and supports policies MG1-MG6.

Issue: Conservation and Design

Policy MG1: Development within Conservation Areas

Policy MG2: Distinctive Local Character

These policies establish conditional support to new development within conservation areas and provide guidance on the nature of appropriate design throughout the neighbourhood plan area. These policies are consistent with the Framework in terms of requiring good design, and conserving and enhancing the historic environment. These policies meet the basic conditions.

Issue: Local Green Spaces

Policy MG3: Swan Field Local Green Space Designation

Policy MG4: Moat Close Local Green Space Designation

These policies designate two areas of land as Local Green Spaces and seek to retain them as open areas.

A representation made on behalf of Ewelme Almshouse Charity states in respect of Swan Field *“the description of the area as a Local Green Space implies public access and public benefit but without indicating how this could be achieved.”* The National Planning Policy Guidance (the Guidance) states that land could be considered for designation even if there is no public access (e.g. green areas which are valued because of their wildlife, historic significance and/or beauty).

The representation also objects to the use of the phrase *“to prevent their development”* in the Submission Plan. I note the reference is to a consultation finding however it would be helpful in order to achieve clarity to also include in the Plan document the wording of the Framework which states:

“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.”²²

I find the latter requirements are met:

- the Local Green Space designations are being made when a neighbourhood plan is being prepared, and
- I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period.

The designations have regard to the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework. Whilst the Neighbourhood Plan does not identify specific sites for development I consider that Policies MG5 and MG6 in conjunction with the policies related to employment, community facilities and recreation areas will together establish a planning policy context that is consistent with the local planning of sustainable development and enable investment in sufficient homes and jobs.

Representations have stated the desire to reach consensus with landowners and accommodate an emerging development proposal are not valid reason to exclude areas from designation. The Guidance states “a *qualifying body should contact landowners at an early stage about proposals to designate any part of their land as Local Green Space. Landowners will have opportunities to make representations in respect of proposals in a draft plan.*” The Consultation Statement confirms that the owners of Swan Field and Moat Close have been consulted in plan preparation, and refers to reduction in size of the area for designation as local green space at Moat Close in order to allow for a new development. Also the representation made on behalf of the Ewelme Almshouse Charity refers to potential new development on part of Swan Field. I note reference in the Consultation Statement to discussions between the Parish Council and the Ewelme Almshouse Charity agent and planning consultant and subsequent amendments to the area designated as Local Green Space. These adjustments in respect of the designations at Moat Close and Swan Field have provided additional evidence that those engaged in plan making have taken steps consistent with the enabling of investment in the area.

²² See Appendix 1 of this report

In considering the basic condition “having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan” it is necessary to consider the full range of national policies and guidance. Paragraphs 76 and 77 of the Framework that refer to Local Green Space designation should not be considered in isolation. Indeed the Framework refers to the need for the planning system to perform an economic role, a social role, and an environmental role and that these roles should not be undertaken in isolation, because they are mutually dependent, and continues *“Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.”*

The Neighbourhood Plan should have regard to all aspects of delivering sustainable development which are extensively set out in the Framework. There is evidence that policies MG3 and MG4 are formulated so as to seek to balance potential growth with the need to protect the village environment. Balancing of this nature is stated to be one of the objectives of the Neighbourhood Plan.

I find the designations:

- are consistent with the local planning of sustainable development; and
- complement investment in sufficient homes, jobs and other essential services

The Framework also states that:

“Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land”*

Whilst a representation made on behalf of the Ewelme Almshouse Charity, which I consider again later in this report, suggests that a smaller area of land should be designated as Local Green Space in policy MG3, this is not stated to be on the basis that the designation relates to an extensive tract of land. I find that each of the Local Green Space designations:

- relate to green space that is in reasonably close proximity to the community it serves; and
- is local in character and is not an extensive tract of land

I now consider whether each of the green areas is demonstrably special to a local community and holds a particular local significance.

The Archaeology Service of Buckinghamshire County Council has welcomed policies MG3 and MG4 *“which make a strong reference to the significance of the village’s historic character”* and commented *“we are pleased to note that the archaeological notification area at Moat Close/Westbury Manor has been discussed, and that MG4 seeks to preserve it as an open space.”* English Heritage has also welcomed and supported policies MG3 and MG4. The representations of these two organisations are relevant in establishing particular local significance.

The green areas proposed for designation are not the entire areas of Swan Field and Moat Close. Policy MG3 designates the middle area of Swan Field as a Local Green Space and to be retained as an open area. The policy defines the relevant area *“as shown on the Proposals Map”* and as being *“from 60 metres south of the frontage on Little Marsh Road to the northern boundary of the existing development to the south.”* Policy MG4 designates part of Moat Close as shown on the Proposals Map as a Local Green Space and to be retained as an open area.

The issue of designation of Local Green Spaces is the subject of the majority of representations submitted during the consultation period. Several representations state there has not been consultation on the reduction in areas of land proposed for designation as Local Green Space. I have dealt with this issue earlier in my report.

The issue most frequently raised in representations is the reduction in area of land proposed for designation of each of the proposed local green spaces from that indicated on consultation plans. This issue is raised in 11 representations relating to Moat Close only, and in 7 representations and a petition containing 171 names of residents, relating to both Moat Close and Swan Field.

Representations refer to the version of the plan approved by Marsh Gibbon Parish Council on 14 January 2014, issued for consultation between 17 January and 28 February 2014 and including a policy MG4: Protecting Green Spaces. This policy stated Swan Field and Moat Close as shown on the Proposals Map are hereby designated as Local Green Spaces and will be retained as open areas. The Proposals Map included in that document, which has been copied and attached to a representation, did not shade the relevant areas of land nor delineate their boundaries, but instead identified the areas by means of a numbered key symbol. I have seen nothing to suggest anything other than the intention of the plan approved on 14 January 2014 was to include the entire areas of Moat Close and Swan Field in the proposed designation as Local Green Spaces. The Consultation Statement confirms in respect of both Swan Field and Moat Close that in preparing the Submission Plan amendments were made to the area designated as Local Green Space in the draft Plan.

Several representations submitted during the consultation period on the Submission Plan offer evidence that Swan Field and Moat Close each in their entirety are special to a local community. Reference is made to evidence in the Consultation Statement of widespread support in the village for the designation of the two green areas, particularly Moat Close, as local green spaces. Reference is also made to paragraphs 40 to 43 of the Evidence Base document *“that cite a number of extremely strong arguments for protecting these green spaces”* including *“why they were designated, how this can be justified in NPPF terms and draws attention to the village support for the designation”*. Reference is made to the changed description of the Local Green Spaces being *“to the detriment, wishes, character, conservation and historical interest of the village.”* The areas *“are rural green lungs in our village which make it a very special place to live in and are cherished by the residents”*. Further representations are that exclusion of parts of these fields from protection *“would severely compromise the character of these areas and of the village as a whole”* and *“both Moat Close and Swan Field are important green spaces vital to the special rural character of Marsh Gibbon and highly valued by its residents, as numerous statements in the plan, consultation statement and evidence bases show.”* Reference is made to Conservation Area documents which defined the areas as important to be kept open and which also indicated the importance of surrounding trees and hedgerows to the village scene. In addition the petition submitted objects to the amendment of the boundaries of the Swan Lane and Moat Close Local Green Spaces which it is stated *“could severely damage these open areas and put the rest of these spaces at risk.”*

Further representations are specific to the Moat Close area. Comment is made that the entire field should be preserved as a local green space with reference to historical and archaeological significance including the statement in the Basic Conditions statement referring to AVDC policy 59. Reference is made to page 7 of the Submission Plan which states *“the central green space which contains the Manorial Site* (recognised as an archaeological notification site) should be retained. [* The ‘Manorial Site’ is the area of Moat Close and Westbury Manor.]”* Moat Close is described as *“a unique feature (that) should be retained unchanged and unspoilt.”* Representations also refer to an illogical and indefensible southern boundary to the proposed Local Green Space, with no physical distinction, and no difference to the contribution to the sense of openness within the village, between land included and land excluded from the proposed designation.

Representations have included observations on a current planning application relating to land forming part of Moat Close. Consideration of aspects of the planning application is not part of my role in undertaking the independent examination of the neighbourhood plan. I have only considered those observations in so far as they are

relevant to consideration whether the Neighbourhood Plan meets the basic conditions.

The representation made on behalf of Ewelme Almshouse Charity in referring to the Swan Field designation policy states *“The line of the division between the protected space and land to the North is arbitrary and ignores the natural subdivision created by the public footpath which crosses the site.”* It is contended *“allocation of the greater part of Swan Field as a Local Green Space would prevent a sustainable pattern of development on land to the North by separating it from the public footpath which crosses the site.”* An alternative boundary is suggested that would result in a reduced area of land designated as Local Green Space.

It is not my role to write or to rewrite a neighbourhood development plan for the Marsh Gibbon neighbourhood area. My role is not to consider alternative proposals that include less or more land in each of the Local Green Space designations. Instead my role is to undertake an independent examination of the Submission Plan in order to determine whether it meets the basic conditions and is compatible with the Convention rights. If I recommend a modification of a policy of the Submission Plan, my recommendation should be limited to what is required to meet the basic conditions or Convention rights.²³

I have considered whether a green area can be only demonstrably special and hold particular local significance in its entirety whilst a substantial part of that piece of land is not demonstrably special and hold particular local significance. I conclude the determining factor would be the nature of the identified qualities why a green area is demonstrably special and holds a particular local significance. Those qualities may be pervasive applying to the whole and to all parts of the green space, others may relate to a quality of the entirety only, and others may relate to a quality of a specific spatial subdivision of the green area.

The Submission Plan approved by the Parish Council asserts, *“Important to the village environment are the two central ‘green lungs’ of farmland that provide a backcloth to many homes and a reminder that this is a rural village.”* It is stated that *“the areas known as Swan Field and Moat Close, as shown on the Proposals map (appendix 2), are valued by the village and will be protected by this Plan. There was strong support for designating these areas as open space, to prevent their development, in the consultation process (see Consultation Statement).”* The Evidence Base document provides supporting statements.

A basis of Local Green Space designation in respect of Swan Field and Moat Close is their open character as green lungs of farmland. Both the entire areas and the reduced areas of land to which policies MG3 and MG4 relate have the quality of

²³ Section 10 Schedule 4B of the Town and Country Planning Act 1990

open character as green lungs of farmland. Similarly the Evidence Base document states the areas provide a backdrop to the Conservation Areas. Both the entire areas and the reduced areas provide a backdrop to the Conservation Areas. The Submission Plan refers to Swan Field as having views across it and having an east-west public footpath across it. These characteristics apply to both the entire area and the reduced area. The Submission Plan refers to a factor of archaeological interest in the case of Moat Close. Both the entire area and the reduced area have archaeological interest. I find that in these respects both the entire and reduced areas at Swan Field and Moat Close have characteristics that have been shown to be demonstrably special to a local community. It would only require one quality of a designated Local Green Space to be demonstrably special to a local community to meet the criterion in question, that is, *“where the green area is demonstrably special to a local community and holds a particular local significance.”*

I have considered the Local Green Space designations in the context of the Framework and the Guidance, and in particular in respect of paragraphs 76 and 77 of the Framework and found:

- the Local Green Space designations are being made when a neighbourhood plan is being prepared;
- nothing to suggest the designations are not capable of enduring beyond the end of the plan period;
- the designations are consistent with the local planning of sustainable development;
- the designations complement investment in sufficient homes, jobs and other essential services;
- the designations relate to green space that is in reasonably close proximity to the community it serves;
- the green areas are local in character and each is not an extensive tract of land; and
- the designations relate to green areas that are demonstrably special to a local community and holds a particular local significance

On this basis I consider that policies MG3 and MG4 have regard to national policy and in advice contained in guidance issued by the Secretary of State. I find these policies meet the basic conditions.

There is a further consideration that supports the conclusion I have reached. The basic condition under consideration requiring determination whether it is appropriate that the plan is made, includes the words *“having regard to”*. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of Local Plans²⁴ which requires plans to be *“consistent with*

²⁴ Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

national policy". In considering this issue I have noted Lord Goldsmith has provided guidance²⁵ as follows:

"What is meant by 'have regard to'? It means what it says. You have to have regard to the considerations. As I have indicated, however, it may be a rapid consideration in certain circumstances, leading to the conclusion that that particular factor does not change the decision at all – there is no effect on the environment, or whatever it may be. It is right, however, that such matters should be considered; regard should be had to them."

The Evidence Base document makes extensive reference to the text of paragraphs 76 and 77 of the Framework and the Basic Conditions Statement extensively refers to other parts of the Framework, and further confirms the Neighbourhood Plan is mindful of the Guidance also. It is evident that policies MG3 and MG4 have been formulated having regard to national policies and advice contained in guidance issued by the Secretary of State. I am satisfied that need to 'have regard to' has been exercised in substance in such a way that it has influenced the final decision on the form and nature of policies MG3 and MG4.

This consideration reinforces the conclusion that these policies meet the basic conditions.

Housing

Issue: Number and location of new homes

Representations made on behalf of Ewelme Almshouse Charity state Policies MG6, MG7, MG8, and MG9 *"are of the generic kind that will be produced in the Local plan and they are therefore not needed and are inappropriate for this Neighbourhood plan."* I consider Policies MG6, MG7, MG8, and MG9 are appropriate for inclusion in the Neighbourhood Plan in that they shape and direct sustainable development outside the strategic elements of the Local Plan. The policies are formulated to ensure that local people get the right types of development for their community. The Parish Council and the District Council are working closely together and the District Council will no doubt give consideration to paragraph 185 of the Framework that states local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation.

²⁵ the Attorney General, (Her Majesty's Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord's Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England's Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

MG5: Developing on the Boundary of the Village

This policy establishes conditional support for development contiguous with the built environment of the village. The policy meets the requirement of the Framework to plan positively to support local development, shaping and directing development. Representations made on behalf of Ewelme Almshouse Charity, support this policy, although this submission is qualified by comment that the plan seeks to constrain it through Policy MG10. The policy is consistent with the Framework that seeks to avoid new isolated homes in the countryside unless there are special circumstances, and aims to deliver a wide choice of high quality homes. The policy meets the basic conditions.

MG6: Infill Housing Development

This policy establishes conditional support for new homes on infill sites and is consistent with the Framework in terms of the delivery of a wide choice of quality homes and requiring good design. The requirement for a small landscaped area in developments of more than four units is innovative and understandable in the context of parts of the existing built form of the village. The approach adopted is consistent with the Framework aim that local people should get the right type of development for their community. The policy meets the basic conditions.

Issue: Types and phasing of new homes

MG7: Meeting Local Needs

The Marsh Gibbon Old Folks Fund in a submission commented on their particular support for Policy MG7 when it appeared in the draft plan of February 2014. The use of the term 'lower end' is unclear. The Framework requires policies to be clear in order to guide how the presumption in favour of sustainable development should be applied locally. Lower end should be defined more precisely. In all other respects the policy meets the basic conditions.

Recommended modification 1: In Policy MG7 define 'lower end'

MG8: Affordable Homes

This policy seeks provision of affordable housing on a sliding scale related to the number of dwellings contained within a proposed development. The policy is flexible in recognising local circumstances may dictate that off-site provision of affordable homes may be necessary. Whilst the requirement on sites of 15 or more dwellings, of at least 35% provision as affordable homes on-site, exceeds the 30% maximum rate specified in Policy GP2 of the saved policies of the Aylesbury Vale District Local

Plan (AVDLP) 2001 - 2011 (2004) the Neighbourhood Plan policy recognises that divergence from the stated requirements may occur on the basis of open book calculations. I also note the evidence of local need and the significance assigned to the provision of affordable homes by the community. The Framework states that neighbourhood planning provides a powerful set of tools for local people to ensure they get the right type of development for their community. This policy meets the basic conditions.

MG9: Density of all Housing

This policy establishes support for development proposals of up to 25 dwellings to the hectare. The policy is positively framed and seeks to shape development so that local people get the right types of development for their community. This policy meets the basic conditions.

MG10: Phasing of all Housing

This policy states that applications will be permitted that generate an average completion rate of about 20 homes every five years. In representations on behalf of Ewelme Almshouse Charity it is stated *“so the NDP is in effect premature to the emerging development plan or at best it is seeking to be in conformity with a Local Plan that is out of date.”* Reference is also made to the situation regarding the emerging Local Plan and *“In this context a Neighbourhood Plan cannot reasonable (sic) set its own housing targets or set limits on how many houses will be built within Marsh Gibbon over a set period. Nor can it reasonably stipulate Phasing requirements. These issues must be dealt with and determined at the Local Plan District wide level. For this reason we object to Policy MG10 as creating an unjustified and arbitrary limit upon housing delivery, particularly in a context where the overall housing land supply requirement is unknown whilst at the same time there is clear evidence of local housing need for both market and affordable dwellings.”* The representation also points out *“the issue of the Districts 5 year land supply is unresolved.”*

There is no requirement for a neighbourhood plan to conform to an emerging local plan however the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. National policy is to boost significantly the supply of housing. There is a presumption in favour of development.

A legitimate basis for a land use plan to limit the pace of development might be to ensure that sufficient necessary infrastructure is in place, for example sewerage capacity. Whilst the neighbourhood plan identifies limited provision of transport and community infrastructure these are not factors that can be utilised to identify a

quantitative threshold. No sites have been identified on the basis of which it would be possible to demonstrate a particular level of capacity.

Phasing of development can be achieved by use of condition when granting planning permission but not where this would unreasonably impact on the deliverability of a development.

The Evidence Base document demonstrates an appropriate approach to determine the scale of local housing need. The policy is consistent with meeting this level of need and indeed is in line with historic completion rates. This does not however provide a basis to limit the overall level of development occurring in the plan period nor override the need to consider development applications in the context of the presumption in favour of sustainable development.

At the heart of the Framework is a presumption in favour of sustainable development. All plans should be based upon and reflect this presumption. Neighbourhood plans should plan positively to support local development. The use of the term “that generate an average completion rate of about 20 homes every five years” has the effect of establishing an approximate maximum number. Adherence to an approximate maximum number creating a ceiling or cap on development represents an inappropriate constrained approach to sustainable development that may potentially be proposed during the plan period. The wording of policy MG10 is in conflict with the presumption in favour of sustainable development established in the Framework. The policy could be modified by deletion of the word “about” and insertion of the phrase “at least” and in this way it would no longer seek to limit or cap sustainable development. There is however a further impediment to policy MG10 meeting the basic conditions.

The policy relates to completion rates. There is no automatic or definite direct relationship between planning permissions granted and completion of dwellings. The housing market will normally be the strongest determinant of build-out rates. There is no clear mechanism to implement the policy and therefore it could not be used to shape and direct development and on this basis it fails to meet the basic conditions.

I recommend deletion of the policy. Proposals will however remain subject to the limitations applied by national and local policy in addition to the Neighbourhood Plan policies.

**Recommended modification 2:
Delete policy MG10**

Employment

Issue: Encouraging local businesses

MG11: Small scale Businesses

This policy establishes conditional support for the expansion of business premises. The term “provided they are small in scale” does not provide clear guidance how the presumption in favour of sustainable development will be applied. The Framework states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. The Framework states: *“Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings.”* The use of the term “provided they are small in scale” does not have regard to national policy. I recommend a modification to delete those words. This does not affect the requirement of Policy MG11 that expansion of business premises *“do not damage the residential environment and do not create significant additional traffic”* which has regard to the Framework aim of promoting healthy communities by ensuring an integrated approach to considering the location of housing, economic uses and community facilities and services.

The policy states that *“applications will be particularly encouraged if they offer employment to local people.”* The offer of employment to local people is not a land use matter and raises issues regarding the Convention rights. A modification is therefore necessary in this respect. Otherwise the policy meets the basic conditions.

Recommended modification 3:

In policy MG11 delete “provided they are small in scale”, and insert “opportunities” after employment

MG12: Relocation of Businesses

This policy seeks to establish conditional support for business relocation. The provision that there should be no net loss of employment has regard to the Framework aims of building a strong, competitive economy; supporting a prosperous rural economy; and promoting healthy communities by ensuring an integrated approach to considering the location of housing, economic uses and community facilities and services. This policy meets the basic conditions.

MG13: Faster Internet

This policy seeks to require proposals to develop or redevelop a site for business use to make provision for high speed broadband to serve it. The Framework recognises that advanced high quality communications infrastructure is essential for sustainable economic growth and states *“The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.”* However the Framework states that in terms of building a strong, competitive economy, investment in business should not be over-burdened by the combined requirements of planning policy expectations. Although the introductory paragraph refers to *“access the Internet with faster broadband connections via their telephone lines”* Policy MG13 is unclear in how a site for business uses should make provision for high speed broadband to serve it.

The policy does not make the link to physical infrastructure requiring planning permission. The policy does not relate to the development and use of land and therefore cannot form part of a neighbourhood development plan. The policy should be deleted. The proposal is however a community aspiration of significance and should be registered through inclusion in a non-statutory appendix to the Neighbourhood Plan.

Recommended modification 4:

Policy MG13 and associated text should be deleted and transferred to a non-statutory appendix to the Neighbourhood Plan

Issue: Farming

MG14: Reuse and Relocation of Farm Buildings

This policy seeks to support applications for new uses of redundant traditional farm buildings provided it has been demonstrated that they are no longer viable or needed for farming. The policy also seeks to support applications for the relocation of farm buildings to sites better able to be accessed by heavy farm traffic.

The policy has regard to the component of the Framework concerned with promoting a strong rural economy through promotion of the development and diversification of agricultural and other land-based rural businesses, and with the achievement of safe and suitable access. This policy meets the basic conditions.

Car parking

Issue: Provision of adequate parking

MG 15: Providing Parking Spaces

This policy seeks to establish standards of car parking provision for new homes. The policy is clear and precise and will shape and direct sustainable development in the neighbourhood area. The policy has regard to the Framework by taking into account the type of development and the availability and opportunities for public transport. This policy meets the basic conditions.

MG16: Private Visitor Parking

This policy seeks to ensure provision for visitor car parking in proposed schemes of groups of four or more dwellings. As the policy is silent in respect of the level of provision it may only result in limited provision. The policy does however shape and direct sustainable development. This policy meets the basic conditions.

MG17: Business Traffic

This policy seeks to ensure that businesses and other organisations make car parking provision for staff and visitors in consultation with the District Council and that new employment sites should make provision for unloading and turning of delivery vehicles. The policy shapes and directs sustainable development. This policy meets the basic conditions.

Issue: Inconsiderate parking by parents delivering and collecting their children

MG18: Access and Parking for School

This policy seeks to support proposals that increase pupil numbers at Marsh Gibbon Church of England School when accompanied by provision of off- street parking for parents when delivering and collecting their children. The policy has regard for the Framework by taking into account the accessibility of the development. Additionally the policy supports new developments that assist the expansion of the school subject to the results of a traffic impact assessment being acceptable. This element of the policy has regard to the Framework which states that all developments that generate significant amounts of movement should be supported by a Traffic Statement or Transport Assessment. This policy has regard to the Framework which requires great weight be given to the need to create, expand or alter schools. This policy meets the basic conditions.

Traffic and transport

Issue: Volume of traffic and safety

A representation supports comments in this section and states the plan should suggest ways to oppose any increase in traffic through the village that might be generated by major developments, for example the introduction of a 7.5 tonne weight limit with allowance for access. The introduction of vehicle weight limits or other traffic management measures do not relate to the development and use of land and therefore cannot form part of a neighbourhood development plan. Similarly the section of the plan relating to traffic and transport issues identifying transportation problems and intentions including speed reduction signs, contrasting road surfacing, and continuous pavements are community aspirations of significance and should be registered through inclusion in a non-statutory appendix to the Neighbourhood Plan.

Recommended modification 5:

The Traffic and Transport section should be transferred to a non-statutory appendix to the Neighbourhood Plan

Community facilities in buildings

Issue: Retaining our facilities

MG19: Protection of Community Facilities

This policy seeks to support important community facilities in buildings. This policy contributes to the achievement of sustainable development and has regard to national policy in particular the promotion of healthy communities through planning positively for the provision of community facilities. The Framework states that planning policies and decisions should “*plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.*” The Framework also refers to “*guarding against unnecessary loss*” and “*ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.*” Reference to ‘existing facilities’ in the policy does not provide clear and unambiguous guidance to decision makers when determining development proposals throughout the Plan period. I recommend a modification so as to meet the basic conditions.

Recommended modification 6:

In policy MG19 delete “these existing facilities”, and insert, “school, shop, public house, village hall, and church, community facilities”

Community recreation areas

Issue: Protecting and enhancing recreation

MG20: Enhancing and Protecting Recreation

This policy seeks to support proposals that enhance and protect existing community recreation areas and proposals for new open space recreation facilities for the benefit of the community. This policy contributes to the achievement of sustainable development and has regard to national policy in particular the promotion of healthy communities through planning positively for the provision of community facilities. The District Council has during the consultation period suggested minor changes to the heading and text of this policy. It is suggested the heading should be amended to be *“Policy MG20: Enhancing, Protecting and Provision of new Recreation Facilities”* and that the second sentence of the policy should be amended to read *“Proposals for new green infrastructure as part of public open space with recreation facilities for the benefit of the local community will be supported.”* The amendments clarify the fact that the policy applies to new provision as well as existing facilities and ensure the policy provides clear and unambiguous guidance to decision makers when determining development proposals as required by the Framework. I therefore recommend the amendments so that the policy meets the basic conditions.

Recommended modification 7:

Policy MG20 should be re-titled Enhancing, Protecting and Provision of new Recreation Facilities; and insert “green infrastructure as part of public” after new; and insert “with” after open space

Our natural environment

Issue: Importance of trees and hedgerows

MG21: Protecting Trees and Hedgerows

This policy seeks to support proposals that are accompanied by a tree and hedgerow survey when the designs demonstrate sympathetic development around trees of high or moderate quality. Additionally proposals will be supported that are landscaped and include planting trees that respect the local distinctive landscape character and the proposed development. The District Council has during the consultation period suggested minor changes to the heading and text of this policy. It

is suggested the heading should be amended to be *“Policy MG21: Enhancing, Protecting and Provision of new Natural Environment Habitats, Trees and Hedgerows”* and that the first sentence of the policy should be extended to add *“in accordance with current BS5837 national best practice”*. It is also suggested that the policy wording should be extended to continue *“Proposals will be supported that can demonstrate net gain in biodiversity in accordance with Defra Biodiversity Impact Calculator.”* I can see the value of these adjustments not least in terms of the Biodiversity Duty that applies to both the Parish Council and the District Council. I therefore recommend them as modifications to meet the basic conditions.

Recommended modification 8:

Policy MG21 should be re-titled Enhancing, Protecting and Provision of new Natural Environment Habitats, Trees and Hedgerows; and insert “in accordance with current BS5837 national best practice” after quality; and insert “Proposals will be supported that can demonstrate net gain in biodiversity in accordance with the Defra Biodiversity Impact Calculator” as a final sentence.

Infrastructure

MG22: Water and Waste

This policy seeks to require demonstration, if necessary through the funding of studies, of adequate on and off site wastewater and water supply capacity for proposed developments such that they would not lead to problems for existing or new users. The policy has regard to the Framework which identifies the requirement to assess the capacity of water supply and wastewater and its treatment and its ability to meet forecast demands. This policy meets the basic conditions.

9. Summary and Referendum

I have recommended the following modifications to the Submission Plan:

Recommended modification 1:

In Policy MG7 define ‘lower end’

Recommended modification 2:

Delete policy MG10

Recommended modification 3:

In policy MG11 delete “provided they are small in scale”, and insert “opportunities” after employment

Recommended modification 4:

Policy MG13 and associated text should be deleted and transferred to a non-statutory appendix to the Neighbourhood Plan

Recommended modification 5:

The Traffic and Transport section should be transferred to a non-statutory appendix to the Neighbourhood Plan

Recommended modification 6:

In policy MG19 delete “these existing facilities”, and insert, “school, shop, public house, village hall, and church, community facilities”

Recommended modification 7:

Policy MG20 should be re-titled Enhancing, Protecting and Provision of new Recreation Facilities; and insert “green infrastructure as part of public” after new; and insert “with” after open space

Recommended modification 8:

Policy MG21 should be re-titled Enhancing, Protecting and Provision of new Natural Environment Habitats, Trees and Hedgerows; and insert “in accordance with current BS5837 national best practice” after quality; and insert “Proposals will be supported that can demonstrate net gain in biodiversity in accordance with the Defra Biodiversity Impact Calculator” as a final sentence.

I also make the following recommendation in Appendix 1 below

Recommended modification 9:

Identified errors that are typographical in nature or arising from updates should be corrected

I consider the Neighbourhood Plan establishes, subject to the modifications I have recommended, a realistic and achievable vision for development and change within the plan area. I am satisfied that the Neighbourhood Plan²⁶:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations;
- meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified meets the basic conditions:

²⁶ The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan,
- the making of the neighbourhood plan contributes to the achievement of sustainable development,
- the making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
- the making of the neighbourhood plan is not be likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects²⁷

I recommend to Aylesbury Vale District Council that the Marsh Gibbon Neighbourhood Development Plan 2014-2031 should, subject to the modifications I have put forward, be submitted to referendum.

I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.²⁸ In all the matters I have considered I have not seen anything that suggests the referendum area should extend beyond the boundaries of the plan area as they are currently defined.

I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area defined by Aylesbury Vale District Council on 12 February 2013.

²⁷ Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

²⁸ Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

Appendix 1: Minor Corrections to the Neighbourhood Plan

I am able to recommend modification of the Neighbourhood Plan in order to correct errors.²⁹ The Neighbourhood Plan is produced to a high quality presentation standard but includes a very small number of errors that are typographical in nature or arise from updates. I recommend modification as follows:

The contents page should correspond with headings in the document

Paragraph 7 on page 4 should refer to 'be in general conformity' rather than 'conform'

Adjustments should be made to the local green spaces text on page 8 as identified in this report including reference to Local Green Space rather than open space, and two lanes rather than three adjoining the designated area of Moat Close.

Above policy MG20 (erroneously referred to as MG MG 20) it is stated that the community recreation areas are identified on the Neighbourhood area map. These areas are not specifically identified.

The list of proposals at page 19 should be headed list of policies

Additionally some of the recommended modifications in this report will necessitate consequential related minor adjustments to the Neighbourhood Plan document.

**Recommended modification 9:
Identified errors that are typographical in nature or arising from updates
should be corrected**

Chris Collison

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September 2014

REPORT ENDS

²⁹ Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990