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# **Report on Slapton Parish Neighbourhood Development Plan 2013- 2033**

**An Examination undertaken for Aylesbury Vale District Council with the support of the Slapton Parish Council on the December 2017 submission version of the Plan.**

Independent Examiner: Bob Yuille MSc DipTP MRTPI

Date of Report: 30 April 2018

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## **Main Findings - Executive Summary**

From my examination of the Slapton Parish Neighbourhood Plan (the Plan) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – Slapton Parish Council;
- The Plan has been prepared for an area properly designated – Slapton Parish as shown on Fig 1 of the Plan;
- The Plan specifies the period to which it is to take effect – 2013 to 2033; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to Referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### *Slapton Parish Neighbourhood Development Plan 2013 - 2033*

- 1.1 The Plan deals with the small, rural parish of Slapton which lies in the valley of the River Ouzel. It contains the small village of Slapton and two hamlets, Horton and Grove, but otherwise is predominantly agricultural in character. The West Coast main-line railway runs south to north along the western boundary of the parish while within the parish the B488 road and the Grand Union Canal run almost parallel with it.
- 1.2 Work on the Plan commenced in 2014. Work on it has been led by a Steering Group made up of volunteers from the local community who were ultimately divided into five Task Groups dealing with Site Analysis, Green Issues, Design, Community Facilities and Traveller Sites. They have been assisted in their work by a planning consultant. The Plan itself contains six Policies which deal with the Settlement Boundary, Housing Site Reservations, the Village Hall, Employment Sites, Local Green Spaces and Design.

### *The Independent Examiner*

- 1.3 As the Plan has now reached the examination stage, I have been appointed as examiner by Aylesbury Vale District Council, (the District Council) with the agreement of Slapton Parish Council (the Parish Council).
- 1.4 I am a chartered town planner and former government Planning Inspector with considerable experience of development plan examinations. I am an independent examiner, and do not have an interest in any of the land that may be affected by the draft Plan.

### *The Scope of the Examination*

- 1.5 As the independent examiner I am required to produce this report and recommend either:
- (a) that the Plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified Plan is submitted to a referendum; or
  - (c) that the Plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the Plan meets the Basic Conditions;
  - Whether the Plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development';
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area;

- whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to referendum; and
- Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').

1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

### *The Basic Conditions*

1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. 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 development plan for the area;
- Be compatible with and not breach European Union (EU) obligations; and
- Meet prescribed conditions and comply with prescribed matters.

1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the Plan should not be likely to have a significant effect on a European Site (as defined in the Conservation of Habitats and Species Regulations 2017) or a European Offshore Marine Site (as defined in the Offshore Marine Conservation (Natural Habitats etc.) Regulations 2007), either alone or in combination with other plans or projects.

## **2. Approach to the Examination**

### *Planning Policy Context*

2.1 The Development Plan for the area, not including documents relating to excluded minerals and waste development, comprises the saved policies of the Aylesbury Vale District Local Plan 2004 (the Local Plan). At the time of writing this report, the District Council has recently submitted the Vale of Aylesbury Local Plan (the emerging Local Plan) for examination.

While there is no requirement for the Plan to be in general conformity with the strategic policies of this emerging plan it is important to minimise conflicts between the policies in the two plans<sup>1</sup>.

- 2.2 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented.

#### *Submitted Documents*

- 2.3 I have considered all policy, guidance and other reference documents I consider relevant to the examination, including those submitted which comprise:
- the Submission version of the Slapton Parish Neighbourhood Development Plan 2013 - 2033, December 2017;
  - The parish of Slapton Policy Maps, December 2017;
  - Fig 1 of the Plan which identifies the area to which the Plan relates;
  - the Consultation Statement and appendices;
  - the Basic Conditions Statement;
  - all the representations that have been made in accordance with the Regulation 16 consultation;
  - the Final Strategic Environmental Assessment Report prepared by the Parish Council;
  - The response by The Parish Council dated February 2018 to the Regulation 16 representations made in response to my letter of 21 February 2018; and
  - Cllr Wright's response (dated 14 March 2018) to the Parish Council's response<sup>2</sup>.

#### *Site Visit*

- 2.4 I made an unaccompanied site visit to the Neighbourhood Plan Area on 27 March 2018 to familiarise myself with it, and visit relevant sites and areas referenced in the Plan and in evidence.

#### *Written Representations with or without Public Hearing*

- 2.5 This examination has been dealt with by written representations. There was no request for a Hearing and I considered one to be unnecessary as the evidence before me presented clear arguments for and against the Plan's suitability to proceed to a referendum.

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<sup>1</sup> See PPG Reference ID: 41-009-20160211.

<sup>2</sup> All available to view at: <https://www.aylesburyvaledc.gov.uk/slapton-neighbourhood-plan>

## *Modifications*

- 2.6 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix.

## **3. Procedural Compliance and Human Rights**

### *Qualifying Body and Neighbourhood Plan Area*

- 3.1 The Plan has been prepared and submitted for examination by the Parish Council which is a qualifying body for an area that was designated by the District Council on 6 January 2015.
- 3.2 It is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.

### *Plan Period*

- 3.3 The Plan specifies clearly the period to which it is to take effect, which is from 2013 to 2033.

### *Neighbourhood Plan Preparation and Consultation<sup>3</sup>*

- 3.4 In 2015 a leaflet was distributed to all households inviting residents to take an active part in preparing the Plan. This was followed by an inaugural meeting at which a Steering Group, made up largely of residents, was formed to lead the task of preparing the Plan. The Steering Group was subdivided into four Task Groups dealing with Site Allocations, Green Issues, Design and Community (subsequently a fifth Task Group was set up to deal with Gypsies and Travellers). The community were informed of progress on the Plan through a dedicated Slapton Neighbourhood Development Plan web site, through a free newsletter distributed to every household in the parish and through a Community Consultation Event at which various matters in the emerging Plan were discussed.
- 3.5 Following on from this Community Consultation Event, and building upon it, a Household Survey was distributed to every household in the parish and all residents over the age of 16 were encouraged to complete a response form. 189 (78%) of the 243 households contacted returned a

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<sup>3</sup> It is claimed that the Steering Group and its consultant did not always act with integrity, something that is disputed by the Parish Council. An independent examiner has no authority to consider such allegations of misconduct. Such matters should be dealt with through internal complaints handling procedures of the qualifying body or local planning authority.

total of 307 response forms. Landowners of key sites around the village were also approached to discuss the implications of the Plan for them. In addition, statutory consultations were carried out at the Regulation 14 stage, and the Plan was amended in the light of these. Further consultations on the submitted version of the Plan were carried out at the Regulation 16 stage, resulting in 13 responses which I consider in this report.

- 3.6 This approach has been criticised on a number of counts. It is suggested that the preparation of the Plan has been 'led' by the District Council. However, as the Parish Council has pointed out, it is the role of the Plan to shape not proscribe future development<sup>4</sup>. The Plan is also required to be in general conformity with the strategic policies of the Local Plan and it is important to minimise conflicts with the policies in the emerging Local Plan. So, the Parish Council cannot be criticised for having regard to the opinions of the District Council. As to the suggestion that the Plan was 'led' by the District Council, this is at odds with the District Council's responses to the Plan at the Regulation 16 stage in which it proposed extensive modifications.
- 3.7 It is also suggested that the Household Survey was 'weighted' in that it did not offer all the alternative sites that were available for houses and a new village hall. However, I note that as far as housing is concerned almost all the sites adjoining the built-up area of the village were shown on a map attached to this survey. They were colour coded to show, amongst other things, whether they already had planning permission or whether they did or did not meet the site selection criteria used in the document entitled *The Parish of Slapton Site Analysis*. People were then asked to indicate their level of support for the development of the various sites deemed to have met the selection criteria. The sites that received the most public support are those allocated as reserve housing sites in the Plan.
- 3.8 It seems to me that this is a fair and balanced approach which cast its net widely around the edge of the village in the search for sites, assessed sites against a sensible range of criteria and made a number of reasonable judgements about their suitability. I note in particular that this exercise was not designed to seek the views of the public on the merits of particular proposals for development. Rather it was intended to gauge the level of public support for the principle of developing various sites on the edge of the village.
- 3.9 As to the Village Hall, the Household Survey simply asked what such a facility should include and what infrastructure improvements would be necessary to support it. I see nothing biased or 'weighted' in this.

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<sup>4</sup> Slapton Parish Neighbourhood Development Plan; Consultation Statement - Paragraph 4.6.

- 3.10 It was also suggested that in consultations a negative approach was taken towards people who commute into the plan area to work and such people were not involved in the preparation of the Plan. It is alleged that, contrary to the claims of the Parish Council, there is no conclusive evidence that every business in the Parish was consulted or that posters and postcards advertising community events along with questionnaires have been delivered to employers. The point being made by those raising these concerns is that the voice of commuters who might want to live in the neighbourhood plan area was not heard. This is a point I will return to when I deal with the issue of sustainability later in this report.
- 3.11 The judgement I have to make at this point is whether the Plan has been publicised in a manner likely to bring it to the attention of people who live, work or carry on business in the plan area. In making this judgement I have taken into account that some employers in the parish will be residents and thus be aware of the Plan; that a major employer in the parish is also a Parish Councillor and will have been aware of the Plan; that prominently displayed banners in Slapton, Horton and Grove were used to advertise consultations at the Regulation 14 stage; and that at least some employers and landowners were, according to the Parish Council, consulted at the Regulation 14 stage. With these points in mind I am satisfied that it is likely that the Plan was brought to the attention not only of those who live in the plan area but also those who work or carry on business there. The Plan has, therefore, met its legal requirements in this respect and I consider that due regard has been had to the advice in the PPG on plan preparation and engagement.
- 3.12 It is unfortunate that at least one member of the local community felt that others were excluded from the plan making process and I acknowledge that there will always be differences of opinion on planning matters within a local community. However, I am satisfied that the proceedings of the Parish Council and the Steering Group were reasonably transparent and open and there was no deliberate attempt on their part to preclude, stifle or ignore the opinions of sections of the local community.

#### *Development and Use of Land*

- 3.13 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

#### *Excluded Development*

- 3.14 The Plan does not include provisions and policies for 'excluded development'.

## *Human Rights*

- 3.15 The District Council is satisfied that the Plan does not breach Human Rights (within the meaning of the Human Rights Act 1998), and from my independent assessment I see no reason to disagree.

## **4. Compliance with the Basic Conditions**

### *EU Obligations*

- 4.1 The Plan was screened for Strategic Environmental Assessment (SEA) by the District Council, which found that it was necessary to undertake a SEA. This was done and the Final SEA Report (December 2017) prepared by the Parish Council concluded that as the Plan contains policies which could enable housing and a village hall on greenfield sites on the outskirts of the village it had the potential to have a minor negative effect on the landscape.
- 4.2 However, the report also points out that the Plan area does not include any designated landscape areas and the sensitivity of the local landscape to development has been assessed as low to moderate. Moreover, the Plan also contains policies which propose a settlement boundary and Local Green Spaces which have some positive impacts on the landscape. These also have to be taken into account in reaching a final judgement.
- 4.3 Having read the Plan and the SEA Report and visited the plan area, I am satisfied that the Plan is unlikely to have a significant negative effect on the environment. In coming to this judgement, I note that the statutory consultees all responded at the Regulation 16 stage and none of them made direct comment, adverse or otherwise, on the SEA Report.
- 4.4 The Plan was also screened for Habitats Regulations Assessment (HRA), but this was not triggered. From my independent assessment of this matter, I have no reason to disagree with this.

### **Main Issues**

- 4.5 Having considered whether the Plan complies with various legal and procedural requirements, it is now necessary to deal with the question of whether it complies with the remaining Basic Conditions (see paragraph 1.8 of this report), particularly the regard it pays to national policy and guidance, the contribution it makes to sustainable development and whether it is in general conformity with strategic development plan policies.

- 4.6 I consider there to be seven main issues relating to the Basic Conditions. These are:
1. Does the Plan contribute to the achievement of sustainable development?
  2. Does **Policy SLP1** lack clarity? Is the Development Boundary it proposes a logical one?
  3. **Policy SLP2** identifies two reserve housing sites. Why were these selected rather than others? Does this Policy propose too low a 'cap' on housing? Does this Policy lack clarity?
  4. Is **Policy SLP3** overly restrictive and does it otherwise meet the Basic Conditions?
  5. Would **Policy SLP4** allow for too much employment development? Would this policy remove Permitted Development rights?
  6. Do all of the three Local Green Spaces proposed in **Policy SLP5** have regard to national guidance?
  7. Should **Policy SLP6** be replaced by a generic design policy?

**Issue 1:** Does the Plan contribute to the achievement of sustainable development?

- 4.7 Slapton is a small rural village with relatively poor public transport links to larger settlements. It has no shops or school or doctors' surgery and only limited community facilities. There are employment opportunities in the parish but many residents commute out to work and those who do are fairly dependent on the private car. Slapton is not, therefore, a particularly sustainable location for development.
- 4.8 The Local Plan (**Policies RA.3, RA.13 and RA.14**) takes a restrictive approach to development in or on the edge of smaller settlements such as Slapton, an approach that is mirrored in the emerging Local Plan (**Policies S2, S3, and D3**). The emerging Local Plan does not define a specific housing target for Slapton but makes clear (**Policies S8 and D3**) that housing sites can be provided either through Neighbourhood Plans or through small scale proposals (normally five dwellings or fewer) which contribute to the sustainability of the village and meet various criteria.
- 4.9 The Plan proposes a similarly restrictive approach to development but defines a settlement boundary for the village of Slapton on the Policies Map (**Policy SLP1**) rather than relying on a phrase such as '*the built up*

*area of settlements'* as is done in the Local Plan or the term '*existing developed footprint'*' as is used in the emerging Local Plan<sup>5</sup>. In principle, there is nothing wrong with this approach which simply interprets at a more local level concepts used in the existing and emerging Local Plan. Such an approach has overwhelming support from local people (Q4 of Household Survey Appendix G) and I do not consider that in a smaller village such as Slapton such an approach necessarily conflicts with the Framework's aim (**paragraph 47**) of boosting significantly the supply of housing.

- 4.10 Given that the Plan has clearly had regard to the latest housing need and supply figures in the emerging Local Plan, I see no overriding requirement for the Parish Council to have commissioned a Housing Needs Survey.
- 4.11 It is suggested that the Plan has underestimated the demand for housing from those who commute into the plan area. I am not satisfied that is the case, as I have seen no evidence to demonstrate that a relatively unsustainable location such as Slapton is the right place to accommodate such housing growth, or that such an approach would be consistent with the policies of the existing and emerging Local Plan which seek to restrict development in rural areas. I also note that the Household Survey does not indicate that people living in the parish have any strong appetite for housing growth above and beyond that proposed in the Plan<sup>6</sup>. Moreover, the evidence I do have refers to a degree of apathy among commuters who were contacted about the prospect of obtaining housing in the parish<sup>7</sup>.
- 4.12 It is also important to note that there has not been an embargo on housing development in the past (planning permission has been granted for 31 dwellings in the parish since 2013) and the Plan does not propose such an embargo. **Policy SLP1** allows for suitably designed infill development within the Settlement Boundary; outside the Settlement Boundary developments such as rural workers' dwellings will be permitted where they contribute to the landscape and within the settlements of Horton and Grove small infill developments will be allowed. Moreover, **Policy SLP2** identifies two reserve housing sites.
- 4.13 I am satisfied in principle, therefore, subject to comments that I will make about the wording of these policies, that **Policies SLP1** and **SLP2** are in

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<sup>5</sup> Policy D3 of the emerging Local Plan states that "*.....the existing developed footprint is defined as the continuous built form of the village, and excludes individual buildings and groups of dispersed buildings. This includes former agricultural barns that have been converted, agricultural buildings and associated land on the edge of the village and gardens, paddocks and other undeveloped land within the curtilage of buildings on the edge of the settlement where the land relates more to the surrounding countryside than to the built-up area of the village.*"

<sup>6</sup> Household Survey Question 1.

<sup>7</sup> Email of 10th March 2017 attached at Appendix A to Cllr Wright's representations.

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general conformity with the strategic policies of the Local Plan and align with the emerging Local Plan insofar as they seek to provide limited housing growth in areas such as Slapton. I am also satisfied that these policies have regard to and would not frustrate one aim of the Framework (**paragraph 47**) which is to boost significantly the supply of housing land.

- 4.14 **Policy SLP4** of the Plan also allows for additional development at a number of existing employment sites in the parish, for the creation of business uses that are ancillary to agriculture and for the creation of cottage industries. In principle, this is consistent with the Framework (**paragraph 28**) and the Local Plan (**Policy GP.17**) which seeks to promote a strong rural economy and safeguard employment sites.
- 4.15 The Plan also contains policies which allow for the provision of a Village Hall (**Policy SLP3**), designate a number of Local Green Spaces (**Policy SLP5**) and ensure good design (**Policy SLP6**). In principle, these policies are consistent with the Local Plan, where it has a relevant policy, and the Framework which variously seeks the provision of community facilities (**paragraph 70** of the Framework), allows for the designation of Local Green Spaces (**paragraphs 76, 77 and 78** of the Framework) and seeks to achieve good Design (**Policy GP.35** and **paragraph 58** of the Framework).
- 4.16 I will make further comments on the wording and scope of these policies later in this report but at this point it is sufficient for me to conclude that, for the reasons set out above, the Plan does make a contribution to the economic, social and environmental aspects of sustainability.

**Issue 2:** *Does **Policy SLP1** lack clarity? Is the Development Boundary it proposes a logical one?*

- 4.17 The District Council proposes extensive revisions to this policy in the interests of clarity. However, given that the District Council has expressed the view that the submitted version of the Plan meets the Basic Conditions<sup>8</sup>, albeit its statutory role is confined to assessing the matters under Paragraph 6(2) and (3) of Schedule 4B to the 1990 Act. it appears that these comments fall into the category of potential 'improvements' to the Plan rather than being modifications necessary to meet the Basic Conditions. It is, however, not the role of the Examination to delve into matters that do not fundamentally affect the Plan's ability to meet the Basic Conditions.
- 4.18 In my judgement **Policy SLP1** is clear insofar as it defines a Settlement Boundary for Slapton village, allows for infill development within that boundary and sets out criteria for development outside that boundary,

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<sup>8</sup> Aylesbury Vale District Council's letter of 9 February 2018 attached to its Regulation 16 responses.

including development in the hamlets of Horton and Grove. When considering Issue 1, I have already set out my reasons for finding that in principle this approach meets the Basic Conditions.

- 4.19 **Policy SLP1** would prohibit the sub division of large gardens. I see nothing to prevent this in the strategic policies of the Local Plan and such an approach is entirely in keeping with the Framework (**paragraph 53**) which advises policies resisting the inappropriate development of residential gardens should be considered. Having visited the village I agree that such development could harm the character and appearance of the local area. I also note that the approach taken in **Policy SLP1** is supported by local people<sup>9</sup>.
- 4.20 It is suggested **Policy SLP1** as worded, would not allow for the possibility of a new village hall referred to in **Policy SLP3** or the additional employment referred to in **Policy SLP4**. If **Policy SLP1** is read in isolation this is correct, but the Plan is intended to be read as a whole and it is possible for different policies to pull in different directions. I see no reason, therefore, to modify the Plan in this respect.
- 4.21 It is also the case that **Policy SLP1** does not specifically allow either for rural exception sites or for dwellings of exceptional quality or innovative design, both of which are referred to in the Framework (**paragraphs 54 and 55**). However, it is made clear in the Plan<sup>10</sup> that it focuses on a small number of key issues and deliberately avoids repeating national or local planning policies. Where the Plan is silent, as it is on rural exception sites and dwellings of exceptional quality, those other policies continue to apply.
- 4.22 As far as the hamlets of Horton and Grove are concerned it is suggested that **Policy SLP1** would allow potentially inappropriate development to come forward on open areas that define their character. I do not agree. It is true that **Policy SLP1** refers to the development of small plots of land between existing buildings but this has to be read in conjunction with **Policy SLP6** which states that in Grove *'...development proposals sustain the character of existing dwellings with spaces between adjoining buildings;'* and that in Horton development should, amongst other things, aim at *'...retaining or providing gaps between buildings...'* Read as a whole, the Plan provides clear and adequate protection for open areas in Horton and Grove.
- 4.23 However, there is one respect in which the Plan lacks clarity and that is in the delineation of the Settlement Boundary on the Policies Map. This Map does not allow the Settlement Boundary to be related to features on the

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<sup>9</sup> Household Survey. Response to Question 7.

<sup>10</sup> Slapton Parish Neighbourhood Development Plan. Paragraph 5.5.

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ground, consequently a decision maker would not be able to apply **Policy SLP1** consistently and with confidence as required by national policy<sup>11</sup>. Inset 1 of the Policies Map should, therefore, be replaced with a clearer map, preferably on an ordnance survey base, at a scale which allows the Settlement Boundary to be interpreted on the ground. (**PM1**)

- 4.24 The question has also been raised as to whether the Settlement Boundary is logical insofar as it excludes buildings at New Bury Farm and Hill Farm, Horton Road. To my mind it is logical to exclude these from the Settlement boundary as they are away from the main built up area of the village and relate more to the surrounding countryside than to the village itself.
- 4.25 For the reasons set out above, and subject to the modification that I propose, I conclude that **Policy SLP1** does not lack clarity and that the proposed Settlement Boundary is a logical one.

**Issue 3: Policy SLP2 identifies two reserve housing sites. Why were these selected rather than others? Does this Policy propose too low a 'cap' on housing? Does this Policy lack clarity?**

- 4.26 It is suggested by representors that land accessed from Rectory Close or land opposite 40-52 Horton Road should have been selected as reserve housing sites rather than those identified in the Plan. I have already discussed the process by which the reserve housing sites referred to in **Policy SLP2** were selected when considering Issue 1 and concluded that it was a fair and reasonable process. The Parish Council went about its task in a comprehensive and systematic manner but inevitably such a process involves a number of subjective judgements and it is always possible for there to be disagreement about such judgements. In this instance, however, the sites selected were chosen by the local community and more importantly I have not seen sufficient evidence to overturn that choice.
- 4.27 Clearly the reserve housing sites have a finite capacity, the figure of some 12 houses is given in the Plan, so to that extent **Policy SLP2** does impose a cap on development. However, there are several reasons why I do not consider this cap to be unreasonably low.
- 4.28 Firstly, Slapton is a relatively unsustainable location for housing. Secondly, the existing and emerging Local Plan seek to restrict housing growth in the rural area (Local Plan **Policies RA.3, RA.13 and RA.14** and **Policies S2, S3, and D3** of the emerging Local Plan). Thirdly, a number of dwellings have already been completed or have been granted

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<sup>11</sup> PPG Paragraph Reference ID: 41-041-20140306.

planning permission in the parish since 2013; and, fourthly, based on the latest housing need and supply assessments, the emerging Local Plan does not specifically allocate any houses in Slapton. Consequently, I do not consider the cap imposed by **Policy SLP2** to be overly restrictive or to run counter to the aims of the development plan policies referred to above or the Framework's aim (**paragraph 47**) of significantly boosting the supply of housing land. Indeed, in identifying reserve housing sites the Parish Council has, arguably, gone further than it need have done to meet that aim.

- 4.29 As to the question of the clarity of **Policy SLP2**, I consider that it states unambiguously that the reserve housing sites would come forward if either the adopted Local Plan requires it or if a five year supply of housing land is not maintained. I note that the emerging Local Plan does not allocate any housing sites in the Plan area nor set a target for such provision. But this could change as a result of the forthcoming examination and it is prudent for the Plan to prepare for that possibility. I also consider the reference in **Policy SLP2** to the two reserved housing sites having a capacity of approximately 12 dwellings is clear and see no need to specify the capacity of each individual site.
- 4.30 It is suggested that additional clarity would be provided to **Policy SLP2** by the inclusion of references to providing satisfactory highway access and to preserving or enhancing the significance of heritage assets. However, there is nothing in the evidence to suggest that any heritage assets would be affected by the development of this site. As to highway access, this matter is not dealt with in the saved policies of the Local Plan and should, therefore, be dealt with in the Plan as shown in **PM2**.
- 4.31 With all of the above points in mind I am satisfied that the two reserve housing sites referred to in **Policy SLP2** are suitable for that purpose and have attracted more public support than any other options considered; that **Policy SLP2** does not impose too low a 'cap' on housing; and that the policy does not lack clarity. Therefore, it meets the Basic Conditions.

**Issue 4: Is *Policy SLP3* overly restrictive and does it otherwise meet the Basic Conditions?**

- 4.32 **Policy SLP3** sets out the conditions under which the development of a new Village Hall would be supported. It states at point (i) that a new Village Hall will only be supported if it adjoins the Settlement Boundary. To my mind it is reasonable for such a facility to be located as close as possible to the majority of the community it will serve and I see nothing in the Framework or in strategic policies of the Local Plan or the emerging Local Plan which conflicts with this approach.

- 4.33 The policy then goes on to specify at point (ii) what would need to be provided as part of the Village Hall scheme before seeking to ensure, at point (iii), the protection or enhancement of designated heritage assets. It is suggested that this should be amended to include reference to undesignated heritage assets. One of the advantages of devising a policy dealing with a proposal in a small area is that it can be specific and does not have to deal with every eventuality. So, for example, the fact that the Parish Council are confident that there are no undesignated heritage assets on land adjoining the proposed Settlement Boundary, and there is no evidence to the contrary, means that the policy does not have to deal with undesignated heritage assets.
- 4.34 The policy also requires, at point (iv) the provision of 'sufficient off-road parking'. This is imprecise as it provides no guidance as to what the term 'sufficient' means. This clause of **Policy SLP3** should be amended to include reference to the proposed parking standards as shown in **PM3**.
- 4.35 I have already dealt with the question of whether it is necessary for policies to include reference to providing a satisfactory highway access and concluded that it is. The policy should, therefore, be amended as shown in **PM4**.
- 4.36 Point (v) of the policy requires the provision of a safe pedestrian access but the definition of sustainable transport modes in the glossary to the Framework also includes cycling and this should be referred to as shown in **PM5**.
- 4.37 Point (vi) requires the provision of street lighting. It has been pointed out that street lighting is permitted development and the responsibility of the local authority, but as I saw on my site visit, not all peripheral sites in the village are well served with street lights. It is therefore relevant in the interests of pedestrian safety for the policy to require their provision.
- 4.38 Point (x) of **Policy SLP3** requires the provision of gap funding and the transfer of land before any housing in the scheme is occupied. The supporting text to Policy SLP3 makes clear that it is expected that this will be achieved through a S106 Planning Obligation.
- 4.39 I am satisfied that it would not be appropriate to deal with such matters through a planning condition, that such a Planning Obligation would be necessary to make the development acceptable in planning terms and that, subject to negotiation, the proposed houses and gap funding would be both directly related to the development and fairly and reasonably related in scale and kind to the development. This aspect of **Policy SLP3** would, therefore, have regard to the Framework's advice (**paragraphs 203 and 204**) on the use of Planning Obligations. In the interests of clarity this should be stated in the policy as shown in **PM6**.

- 4.40 Point (xi) of **Policy SLP3** states *"The housing scheme will provide 25% affordable housing if the proposed number of dwellings is lower than the threshold set by AVDC to trigger such provision."* The provision of affordable housing raises the question of viability as point (xi) must be read in conjunction with point (ix) of the policy, the gist of which is that the housing scheme should comprise only the minimum number of dwellings necessary to provide the village hall.
- 4.41 It is difficult to see how the minimum number of houses necessary to provide the village hall could also finance the provision of affordable housing. I note that this policy is discussed in the Basic Conditions Statement where it is stated that *"It will only be justified if it can deliver the public benefit in full, i.e. the new village hall (rather an affordable housing benefit)"*<sup>12</sup>. This indicates that the purpose of the policy is to provide a village hall rather than affordable housing. To attempt to provide both, as **Policy SLP3** as worded does, would be to impose such a scale of obligations that the viability of the scheme would be threatened and would thus conflict with the aims of the Framework (**paragraph 173**). The District Council suggests an alternative form of wording but this does not overcome the viability issue identified above.
- 4.42 Moreover the terms of the policy are not clear. The Parish Council have indicated that the purpose of this point is *"...to cover the eventuality that, even though the housing scheme is justified only as an enabling scheme, it may be desirable to include an element of affordable housing without the scale of the scheme being too large for our small village"*<sup>13</sup>. That may be so, but on the face of it point (ix) seems to mean that if the level of housing needed to fund the village hall falls below the threshold above which the District Council would require the provision of affordable housing, then the developer would still be required to provide affordable housing.
- 4.43 In addition to threatening the viability of the overall scheme such an approach would not have regard to national policy<sup>14</sup> nor align well with the emerging Local Plan (**Policy H1**) which identifies a threshold of 11 or more dwellings below which affordable housing contributions will not be required.

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<sup>12</sup> Basic Conditions Statement page 12.

<sup>13</sup> Parish Council's response to the Regulation 16 representations.

<sup>14</sup> PPG Reference ID: 23b-031-20161116. *Affordable housing contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area).*

4.44 For the reasons set out above, point xi) of **Policy SLP3** should be deleted as shown in **PM7**. Subject to the Proposed Modifications set out above I am satisfied that **Policy SLP3** is not overly restrictive and does meet the Basic Conditions.

**Issue 5:** *Would Policy SLP4 allow for too much employment development? Would this policy remove Permitted Development rights?*

4.45 It is suggested that as Slapton is a relatively unsustainable location, it would not be appropriate to allow significant employment growth to take place there. That is true, but I do not consider that **Policy SLP4** as drafted would allow for significant employment growth. It states that additional employment will be supported at a number of existing, well established employment sites but states that the visual and environmental impact of such proposals must be mitigated and that they should not be of a scale that causes significant harm in terms of traffic movement in the area. Such criteria would have the effect of limiting the size of development. There is, therefore, no need to insert the words 'small scale' into the policy.

4.46 As has already been established earlier in this report, the term 'sufficient parking' is imprecise and should be replaced as shown in **PM8**.

4.47 Policy SLP4 does not mention permitted development rights and does not imply that it would remove those rights.

**Issue 6:** *Do all of the three Local Green Spaces proposed in Policy SLP5 have regard to national policy?*

4.48 The Framework makes clear (**paragraph 77**) that the Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used: where the green space is in reasonably close proximity to the community it serves; where the green area is demonstrably special to a local community and holds a particular local significance; and where the green area concerned is local in character and is not an extensive tract of land.

4.49 **Policy SLP5** proposes to designate three Local Green Spaces; at The Recreation Ground, at the Princess (Jubilee) Field and at Slapton Lockside. It is not disputed that the first two of these sites meet the criteria for designation set out above. Having visited the sites and read the evidence I consider that they do.

4.50 The third site, Slapton Lockside, is undoubtedly reasonably close to the village and is undoubtedly small consisting of the land immediately around Lock 30 of the Grand Union Canal. The owner of that site, the Canal and River Trust, while sympathising with the aim of protecting this valued asset, is concerned that the Local Green Space designation, which is akin to the protection afforded to Green Belt, may have the unintended consequence of restricting its ability to provide visitor facilities, outdoor

sports and recreation facilities or other facilities which would support the use of the canal.

- 4.51 **Paragraph 78** of the NPPF states that local policy for managing development within a Local Green Space should be consistent with policy for Green Belts and **paragraph 89** of the NPPF does permit provision of appropriate facilities for outdoor sport and outdoor recreation as long as such developments preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Hence, I do not agree that the designation of this site as Local Green Space will necessarily restrict the possibility of such developments.
- 4.52 As has been pointed out by the Parish Council, there are many opportunities to develop such facilities along the canal on land not affected by a Local Green Space designation and I have seen no evidence that Lock 30 is a particularly favoured or appropriate location for such development.
- 4.53 The owner argues and that the Lock has not been shown to be demonstrably special or to hold particular local significance but this conflicts with the evidence obtained from the Household Survey which showed that over 87% of respondents either agreed or strongly agreed with the proposal to designate this land as Local Green Space<sup>15</sup>.
- 4.54 The owner also questions why the Lock is proposed for the designation as a Local Green space while the rest of the canal is not when, in their view, there is no discernible difference between the two. In my opinion, while Lock 30 is an integral part of the canal, it has a different character and appearance to other nearby sections of the canal. It is an attractive feature in its own right with its red brown brick lock chamber, stone copings, wooden double mitre gates and wide grass near side verge and is located in a tranquil and beautiful setting.
- 4.55 The question of safety is also raised by the owner who is concerned that access to the offside of the canal can only be gained using the gate walkways. However, I see no reason why the proposed designation should increase either the number of people visiting the site or their propensity to use the gate walkways.
- 4.56 Finally, the owner raises the point that the canal as a whole should be treated as a single planning unit. While that may be the case, no clear evidence has been put forward to indicate that this is of relevance to the question of whether or not the site should be designated as a Local Green Space.
- 4.57 For the reasons set out above, I conclude all of the sites proposed as Local Green Spaces in Policy SLP5 have regard to national policy as set out in the Framework (**paragraph 77**). The Parish Council has, however,

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<sup>15</sup> Household Survey. Response to Question 10.

pointed out that the extent of the proposed Local Green Space at Slapton Lockside as shown on the Policies Map is not accurate. This error should be rectified and, for the avoidance of doubt, this does not substantively affect its extent for the purposes of my assessment of **paragraph 77** of the Framework. (**PM9**)

**Issue 7: Should *Policy SLP6* be replaced by a generic design policy?**

- 4.58 **Policy SLP6** identifies seven different 'Character Areas' within the parish and sets out design principles for each. While I note that the District Council favours the use of one generic design policy covering the whole parish I see nothing wrong with the approach taken in **Policy SLP6**. The Character Areas were defined following extensive analysis<sup>16</sup> and having visited the parish I consider them to be well founded.
- 4.59 I see nothing in the relevant Local Plan policy (**Policy GP.35**) or in the Framework (**paragraphs 58 to 60**) which precludes this more place specific approach and I see no overriding reason to replace it with a single generic policy.

*Other Matters*

- 4.60 The District Council has pointed out a number of typographical errors and factual inaccuracies in the Plan. For example, while the Plan does not have a policy relating to Gypsies and Travellers, the policy it does refer to on this matter contained in the emerging Local Plan is not the latest version of that policy. While such points do not affect the ability of the Plan to meet the Basic conditions the Parish Council should consider making the necessary corrections.

## **5. Conclusions**

*Summary*

- 5.1 The Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard for all the responses made following consultation on the neighbourhood Plan, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies and text to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

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<sup>16</sup> Parish of Slapton Character Assessment.

### *The Referendum and its Area*

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The Plan as modified has no policy or proposals which I consider significant enough to have an impact beyond the designated neighbourhood plan boundary, requiring the referendum to extend to areas beyond the plan boundary. I recommend that the boundary, for the purposes of any future referendum on the Plan, should be the boundary of the designated neighbourhood plan area.

### *Overview*

- 5.4 The preparation of this Plan has involved much hard work on the part of members of the local community and their professional advisers. They are to be congratulated on producing a thoroughly researched document which focusses on matters of particular importance in the parish, which contains distinctive local policies and which avoids the temptation to replicate policies which can be found elsewhere in the development plan or national guidance.

*R J Yuille*

Examiner

## Appendix: Modifications

Proposed modification number (PM)	Page no./ other reference	Modification
PM1	Policies Map	Inset 1 of the Policies Map to be replaced with a clearer map, preferably on an ordnance survey base, at a scale which allows the Settlement Boundary to be interpreted on the ground.
PM2	Policy SLP2 Page 21	<b>iv. A safe and convenient form of highway access is provided.</b>
PM3	Policy SLP3 Page 22	<b>iv. <i>The scheme provides sufficient <u>the required off-road car parking spaces to meet its needs in line with the adopted standards of the Local Plan.</u></i></b>
PM4	Policy SLP3 Page 22	<b>iv. A safe and convenient form of highway access is provided.</b>
PM5	Policy SLP3 Page 22	<b>v. <i>Safe pedestrian and cycle access is made to serve the scheme</i></b>
PM6	Policy SLP3 Page 23	<b>x. <del><i>The housing scheme will not be occupied in full, until the necessary gap funding has been provided and the land for the facility,</i></del></b>

		<p><b><i>as defined in point (ii) has been transferred to the Parish; and</i></b></p> <p><b>x. <u>Prior to the occupation of any dwelling in the proposed housing in this scheme a S106 Obligation shall be signed which covers the provision of any necessary gap funding and the transfer of land as defined in point (ii) to the Parish Council.</u></b></p>
PM7	Policy SLP3 Page 23	<b><i><del>xi. The housing scheme will provide 25% affordable housing if the proposed number of dwellings is lower than the threshold set by AVDC to trigger such provision.</del></i></b>
PM8	Policy SLP4 Page 23	<b><i>ii. <u>The required Sufficient provision is made for additional on-site car parking in line with the adopted standards of the Local Plan; and</u></i></b>
PM9	Policies Map	Inset 1 of the policies Map be modified to include the side pond area at Slapton Lockside as shown on the map attached to Slapton Parish Council's Regulation 16 representations.