

**Wingrave with Rowsham Parish Council**

# **Wingrave with Rowsham Neighbourhood Development Plan**

A Report to Aylesbury Vale District Council of the Independent Examination of the Wingrave with Rowsham Neighbourhood Development Plan

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## Overall Finding

This is the report of the Independent Examination of the Wingrave with Rowsham Neighbourhood Development Plan. The plan area is the entire Wingrave with Rowsham Parish area. The Plan period is 2013 to 2033. The Neighbourhood Plan includes eight policies relating to the development and use of land.

The report finds that subject to specified modifications the Neighbourhood Plan meets the basic conditions and other requirements to proceed to a local referendum within the Parish.

## Neighbourhood Planning

1. 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.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process 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.
3. The Wingrave with Rowsham Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Wingrave with Rowsham Parish Council (the Parish Council), a qualifying body able to prepare a neighbourhood plan, in respect of the Wingrave with Rowsham Neighbourhood Area which was formally designated by Aylesbury Vale District Council (the District Council) on 14 December 2012.
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to the District Council. The District Council has submitted the Neighbourhood Plan to me for independent examination.

## Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.

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<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012)

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

6. 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 version 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. If '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.
7. 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 an experienced Independent Examiner of Neighbourhood Plans. 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 forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.
8. As independent examiner I am required to produce this report and must recommend either:
  - that the Neighbourhood Plan is submitted to a referendum, or
  - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
  - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.
9. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>3</sup> 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.<sup>4</sup>
10. One representation submitted during the Regulation 16 period for publicity requested a hearing stating, "On behalf of my client, I would respectfully request that the Neighbourhood Plan is subject to a public hearing so that the matters identified in this response can be

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<sup>3</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>4</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

discussed further.” Another representation stated “A site visit from an independent person to understand our incredulity would be very welcome.” This representation included a copy of a submission to the Parish Council dated 16 May 2015 in which a request was made for oral representations to be taken by an “appointed inspector”.

11. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>5</sup> The Guidance states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”
12. 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. All parties have had opportunity to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

## **Basic conditions and other statutory requirements**

13. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>6</sup> 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,
  - 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

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<sup>5</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

<sup>6</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

- 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 projects.<sup>7</sup>
14. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>8</sup> 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 policies'.
  15. In addition to the basic conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>9</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 which are made pursuant to the powers given in those sections.
  16. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 14 December 2012. A representation has queried this date on the basis that the Neighbourhood Plan Consultation Statement and the District Council website indicate a different date. The District Council has confirmed the decision document was incorrectly dated but that designation did occur on 14 December 2012. A map of the Wingrave with Rowsham Designated Plan Area is included as Plan A of the Submission Version Plan. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>10</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>11</sup> All requirements relating to the plan area have been met.
  17. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>12</sup> and the Neighbourhood Plan does

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<sup>7</sup> 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

<sup>8</sup> The Convention rights has the same meaning as in the Human Rights Act 1998

<sup>9</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

<sup>10</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>11</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>12</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

not include provision about excluded development.<sup>13</sup> I am able to confirm that I am satisfied that each of these requirements has been met.

18. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>14</sup> The front cover of the Submission Version clearly shows the plan period to be 2013 – 2033.
19. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>15</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan. I have been appointed to examine whether the submitted Neighbourhood Plan meets the basic conditions and Convention rights, and the other statutory requirements.
20. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
21. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
22. Apart from minor corrections and consequential adjustment of text (referred to in the Annex 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 and the other requirements I have identified.<sup>16</sup>

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<sup>13</sup> Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>14</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

<sup>15</sup> 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

<sup>16</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

## Documents

23. 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 other requirements:

- Wingrave with Rowsham Parish Neighbourhood Plan 2013-2033 Submission Plan November 2015
- Wingrave with Rowsham Parish Neighbourhood Plan 2013-2033 Basic Conditions Statement November 2015
- Wingrave with Rowsham Parish Neighbourhood Plan 2013-2033 Strategic Environmental Assessment Report November 2015
- Wingrave with Rowsham Parish Neighbourhood Plan 2013-2033 Consultation Statement November 2015
- Wingrave with Rowsham Parish Neighbourhood Plan 2013-2033 Regulation 14 Report November 2015
- Wingrave with Rowsham Parish Neighbourhood Plan 2013-2033 Site Assessment Report November 2015
- Wingrave with Rowsham Neighbourhood Plan 2013-2033 Local Green Spaces - Wingrave Village November 2015
- Wingrave with Rowsham Parish Neighbourhood Plan 2013-2033 Evidence Base (listed in Appendix B to the Submission Version Neighbourhood Plan)
- Representations received during the Regulation 16 publicity period
- Aylesbury Vale District Local Plan (AVDLP) Saved Policies (27 September 2007)
- Vale of Aylesbury Local Plan Draft Plan for Summer 2016 Consultation
- Aylesbury Vale District Council – Five-year housing land supply position statement, January 2016
- National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
- Department for Communities and Local Government Permitted development for householders' technical guidance (April 2016) [*In this report referred to as the Permitted Development Guidance*]
- 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*]
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Localism Act 2011
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations*]

## Consultation

24. The submitted Neighbourhood Plan is accompanied by a comprehensive Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members and other consultees and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.
25. Following earlier work involving a Community Questionnaire and production of a Community Plan in July 2012 the Parish Council decided that a Neighbourhood Plan should be prepared. Progress has been reported regularly through the monthly Parish Magazine 'Communiqué', and through reports to Parish Council meetings open to the general public. A Parish-wide e-mail Postie system has been extensively utilised. Three public consultation meetings were held in July 2014 with two further meetings in August 2014. An information leaflet was distributed to all households and businesses in January 2015, and further consultation meetings held in February and March 2015.
26. Housing site identification, assessment and selection has been given particular attention with the establishment and training of a Site Assessment Sub Group of the Neighbourhood Development Plan Working Group. Important stages in the site selection process included a call for sites in January 2014 that was followed by distribution of 54 letters and questionnaires sent to registered owners of potential sites, and following a detailed scoring of sites, a public consultation event was held in February 2015.
27. Pre-submission consultation in accordance with Regulation 14 was undertaken in the six-week period 1 April to 17 May 2015. A consultation event held as a Parish open meeting was held at the village school on 6 May 2015. The event was well advertised and had 125 parishioners present.
28. A petition signed by 159 residents asked *"that the process by which the Sites were selected be transparently reviewed by an independent expert."* The Parish Council subsequently took up an offer from Winslow Town Council that a Councillor who had played a major part in the Winslow site assessment and selection process could undertake a review of the Wingrave with Rowsham site selection process. The

review concluded *“In summary therefore, I find that the process used by the Wingrave and Rowsham Neighbourhood Plan Group to establish the best sites for new housing to be sound and would commend it in particular because of the weight given in the process to the community view, which is what Localism and Neighbourhood Planning are all about.”*

29. In addition to the petition referred to above some 200 responses were received from statutory consultees and residents during the Regulation 14 Pre-submission consultation period. The Regulation 14 report and the Consultation Statement show that representations resulted in a number of changes to the plan that was approved by the Parish Council for submission to the District Council in November 2015.
30. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 publicity period between 22 February and 11 April 2016. A total of 36 representations were submitted to the District Council during the publicity period which I have taken into consideration in preparing this report, even though they may not be referred to in whole, or in part. Two representations were received after the publicity period had closed. I have not taken those representations into consideration.
31. It is evident from representations that the plan preparation process has left a large number of questions from stakeholders unanswered and issues unresolved, including significant differences between the Parish Council and the District Council. This situation has generated a number of complex representations and resulted in the Independent Examination requiring a longer than normal period of time to be concluded.
32. Six representations state support for the Neighbourhood Plan. Comments include:
  - The Plan supports the character and historic nature of the parish whilst also considering the need for some development in order to ensure the long term sustainability of the parish and its services, especially Wingrave shop, school and pub.
  - Although we would prefer no development the Plan is better than a free for all for developers trying to build on a large number of fields around the village.
  - The Parish Council has spent several years consulting the village and prepared the Plan according to the expressed wishes of those who made the effort to turn up to the consultation meetings.

- I expect you will hear from many residents who are affected by the current proposals and who are upset and angry about them, which I can understand, but I believe the majority are in favour of the Plan as it will restrict future development and prevent Wingrave from becoming a large building site.

33. Natural England and Highways England confirm no comments on the Plan. Anglian Water state no objection to the site allocations but note foul sewerage network improvements are expected to be required to enable development, and in the case of one site water supply network improvements are also expected to be required. One representation expressed concern regarding the impact of likely development on traffic in general, in particular on the A413/A418, and on services such as doctors surgeries. Other representations relate to policies of the Neighbourhood Plan. Where appropriate I refer to those representations in the later section of my report relating to the Plan policies.

34. Several representations state consultation has not been adequate. Points made include:

- Unless a parishioner is a regular attendee of Parish Council meetings the findings and information from the Steering Group was not widely available.
- Meetings of the Steering Committee have not been open to the public contrary to the terms of reference.
- One event was poorly advertised.
- Rowsham residents have been consulted separately.
- Representations made at Regulation 14 publicity stage are not passed to the Independent Examiner but merely summarised.
- Only a short period of time was available for questions at the meeting held at Wingrave School in 2015.
- Many residents were unaware of the huge importance of the two-day consultation period in the Methodist Chapel and inadequate information was available to enable informed site selection.
- Earlier consultation responses have not been seriously considered and responded to.
- Site selection is not based on the most up-to-date evidence.
- Site selection was structured in a way that made choices difficult in particular selection criteria were made available retrospectively.
- Weighting and scoring of site selection criteria is unclear.
- The independent review of the site selection process did not

consider why there were so many extreme scores attributed to sites.

- Rowsham residents were afforded an opportunity to vote on development in Rowsham but Wingrave residents were not given a similar opportunity.
- Requests for a meeting to review the Neighbourhood Plan before submission to the District Council were ignored.
- Some Site Selection Working Group members had a vested interest in some sites being excluded.
- Minutes of Steering Group meetings have been published late and have been inadequate in explaining the site selection process.

35. The District Council states *“The detail of engagement with specific landowners of the sites considered is a bit thin and set out in a few lines on page 30 of the Consultation Statement. Although a statement is there that the landowners behind the allocated sites have given their support, more detail would be expected and also the extent that the alternative site landowners have been engaged.”*

36. In a consultation Government had put forward a question as follows *“Do you agree with the introduction of a new statutory requirement (basic condition) to test the nature and adequacy of the consultation undertaken during the preparation of a neighbourhood plan or order? If you do not agree is there an alternative approach that you suggest that can achieve our objective?”* The published Government response to the consultation states *“We do not intend to take forward the proposals to introduce a new basic condition...”*<sup>17</sup> The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which –

- a) Contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- b) Explains how they were consulted;
- c) Summarises the main issues and concerns raised by the persons consulted; and
- d) Describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>18</sup>

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<sup>17</sup> Department for Communities and Local Government Neighbourhood Planning Government response to consultation December 2014 ISBN 978-1-4098-4416-7

<sup>18</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

37. The Consultation Statement (May 2015) includes information in respect of each of the requirements set out in the Regulations. On this basis I am satisfied the requirements have been met.

## **The Neighbourhood Plan taken as a whole**

38. 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 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.

Consideration of Convention rights; and whether 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 projects

39. The Basic Conditions Statement states *“The Neighbourhood Plan has regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act.”* 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).<sup>19</sup> I have seen nothing in the submission version 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.

40. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council to submit to the District Council either an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations

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<sup>19</sup> 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.

2004, or a statement of reasons why an environmental report is not required. The District Council issued a Screening Opinion in February 2015 concluding that the Neighbourhood Plan should be prepared in accordance with the EU Directive 2001/42 on Strategic Environmental Assessment (SEA).

41. The SEA report (November 2015) sets out the assessment framework used to assess the sustainability performance of the Neighbourhood Plan. It is confirmed that the proposed framework was the subject of consultation with the statutory consultees as part of the SEA Scoping Report. The SEA report includes the assessment of reasonable alternatives. The SEA Report states *“The conclusion of the assessment of the objectives and policies of the Neighbourhood Plan is very encouraging. There is a close correlation between the plan’s objectives and those of the sustainability appraisal, perhaps as should be expected from a community-driven document. The policies have clearly been selected and drafted to ensure that any potential for negative impacts is avoided through site selection and effective policy wording. In a number of cases, the Neighbourhood Plan should deliver positive benefits. There are some reasonable alternative policy options but in no case does that alternative score as well against the chosen policy and there is therefore no case for policy changes as a result.”*
42. Natural England has confirmed it has no issue with the conclusions reached regarding Strategic Environmental Assessment provided the requirements in each policy are fully observed.
43. A representation states “the screening opinion issued by AVDC was not published on the Parish Council website” and “the SEA Scoping Report was not made public for consultation during the initial period...” In this respect the District Council states *“AVDC understands that whilst this did not take place, there is no requirement in regulations or guidance for this to take place. Therefore, the neighbourhood plan preparation on these points is not in conflict with the NPPF”*. The Basic Conditions Statement states *“A SEA Scoping Report was published by the Parish Council for consultation with the statutory authorities to complete Stage A of the SEA process. The comments received were then taken into account in Stages B and C of drafting the SEA alongside the Pre-Submission Neighbourhood Plan, both of which were published for consultation with the statutory authorities as well as the general public. A Draft SEA was incorporated into the latter and the final SEA is incorporated into the Submission document.”*

44. The objective of EU Directive 2001/42<sup>20</sup> 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 likely to have significant effects on the environment.” The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>21</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>22</sup>
45. The SEA report includes, as part 6, the environmental protection objectives that are considered relevant to the Neighbourhood Plan and the way those objectives and any environmental considerations have been taken into account during its preparation. I am satisfied the approach adopted is appropriate and note the statement “*The consultees made no comments on the selection of the proposed SEA objectives.*” I also note part 9 of the SEA report states the intention that “*the Neighbourhood Plan proposes that the progress in its implementation will be assessed using the measures for each objective*”. It is confirmed that should any real or potential negative impacts be identified then the Parish and District Councils will seek to review the relevant policies and their implementation. The Parish Council has also, in a Regulation 16 representation, stated “*The Parish Council intends to review the plan as necessary and within 5 years at the latest*”. This commitment to plan monitoring represents good practice.
46. A representation states no reasonable alternatives for site allocations were considered. There is a need to consider whether the SEA Report generates and assesses alternatives for a reasonable range of plan issues, and secondly, for any given issue, whether the range of alternatives considered is reasonable.
47. In the context of assessing the impact of the Neighbourhood Plan strategic objectives the SEA report states “*Given the national planning policy context, it was not a reasonable alternative to seek to avoid growth at all.*” The SEA report includes within part 8, Assessing the impact of the Neighbourhood Plan policies, a section with the title “*Assessing Reasonable Alternatives*”. This section of the SEA Report confirms there has been some consideration of an alternative quantum

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<sup>20</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>21</sup> Defined in Article 2(a) of Directive 2001/42

<sup>22</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

and spatial distribution of development. Consideration of allocation policies (Policies 2,3 and 4) without the mitigation measures has also been considered.

48. The SEA Report also states *“The only reasonable alternative to the remaining policies would be the choice of having no policy on the matter and relying upon the policies of the development plan.”* The SEA report also states that the Neighbourhood Plan is merely refining the policy areas in question to reflect their relevance to the Wingrave with Rowsham Parish.
49. The District Council states with respect to Sites H/F as referred to in the Site Assessment Report *“The site was also considered as one large site (as in the Aylesbury Vale HELAA Report) rather than as two sites which has influenced the scoring. As the site is the subject of a planning application we believe its potential as a smaller site should have been considered. This also has implications for the consideration of reasonable alternatives within the sustainability appraisal”.* In a Regulation 16 representation the Parish Council has stated with respect to the planning application relating to sites H/F *“The content of that application is very substantially different from that of the proposal which was put to the Parish Council in late 2014. This was the only proposal Careys’ had made at the time of the site assessment and selection for inclusion in the Neighbourhood Plan. Furthermore, the first opportunity the Parish Council had to consider the latest Carey’s proposal was at its meeting on 15th December 2015. By the time it was considered the Council had already given its approval to the Neighbourhood Plan. Perhaps more importantly, the process of site assessment and selection related to the sites themselves and not to any developer’s proposal of which the Parish Council might or might not have been aware. Thus when considering the housing capacity of the site no account could or should have been taken of the Careys original outline proposal of which we were at that time aware”.*
50. Generation of alternatives for every conceivable issue and option is not a requirement of the EA Regulations and could be detrimental to efficient plan making; insufficiently focussed on the important issues within the specific plan area; and not well suited to community led plan making where processes benefit from being proportionate, transparent and easily understood. The SEA report states *“The methodology for the assessment is intended to be proportionate to the task of assessing the modest development proposals of a Neighbourhood Plan in a relatively small parish area.”*

51. Regulation 12 (2) (b) of the EA Regulations requires identification, description and evaluation of the likely significant effects on the environment of reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme. Regulation 12 (3) states the report shall include such of the information referred to in Schedule 2 to the Regulations as may reasonably be required, taking account of – (a) current knowledge and methods of assessment; (b) the contents and level of detail in the plan or programme; (c) the stage of the plan or programme in the decision-making process; and (d) the extent to which certain matters are more appropriately assessed at different levels in that process in order to avoid duplication of the assessment.
52. The EA Regulations acknowledge SEA is plan context dependent in terms of taking into account the objectives and geographical scope of a neighbourhood plan. In *Gladman Developments Ltd v Aylesbury Vale DC [2014] EWHC 4323 (Admin)* it was confirmed that a report will satisfy the requirements of the Implementing Regulations, and hence the Directive, if the information included in the report is that which is “*reasonably required to evaluate the likely significant effects of the plan or programme and reasonable alternatives taking account the objectives and the geographical scope of the plan or programme.*” The SEA Report includes identification, description and evaluation of the likely significant effects on the environment of reasonable alternatives.
53. The Guidance states alternatives “*must be sufficiently distinct to highlight the different environmental implications of each so that meaningful comparison can be made. The alternatives must be realistic and deliverable*”. The alternative spatial strategies considered in the SEA report are reasonable, and relevant. The alternatives address the essential strategic choices to be made. The alternatives are presented in sufficient detail such that the difference between the options is very clear. The options are addressed at a strategic level, appropriate for a Strategic Environmental Assessment.
54. Alternatives presented in respect of policies have been assessed to the same level of detail against a consistent set of assessment criteria. Paragraph 8 of Schedule 2 to the EA Regulations requires an outline of the reasons for selecting the alternatives dealt with. The explanation of why the preferred alternatives were selected is brief, but is capable of description as an outline. This requirement has been met in respect of the Neighbourhood Plan. The requirement for the Environmental Report to include a non-technical summary has also been met.

55. The Guidance states “*The strategic environmental assessment should only focus on what is needed to assess the likely significant effects of the neighbourhood plan proposal. It should focus on the environmental impacts which are likely to be significant. It does not need to be done in any more detail, or using more resources, than is considered to be appropriate for the content and level of detail in the neighbourhood plan.*”<sup>23</sup> I consider likely significant effects have been assessed. I am satisfied that the level of consideration of alternative strategies in the SEA is appropriate for the content of the plan and meets the requirements of the SEA Directive and the Regulations. I am satisfied that the requirements in respect of Strategic Environmental Assessment have been met.

56. The Basic Condition Statement states “The AVDC SEA screening opinion considered that the Neighbourhood Area is not in close proximity to any European designated nature sites so does not require an Appropriate Assessment under the EU Habitats Regulations”. I conclude the requirements of the EU Habitats Regulations have been met. I have not seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site.

57. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

58. 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

59. The Guidance<sup>24</sup> states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive):

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<sup>23</sup> National Planning Policy Guidance Revision date 09 02 2015 Paragraph 30 Reference ID:11-030-20150209

<sup>24</sup> National Planning Policy Guidance paragraph 031 reference ID:11-031-20150209

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

60. I refer initially to 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 plan*”. The requirement to determine 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 Plans<sup>25</sup> which requires plans to be “*consistent with national policy*”.

61. Lord Goldsmith has provided guidance<sup>26</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national policy objectives.*”

62. The Basic Conditions Statement seeks to demonstrate that the Neighbourhood Plan has been prepared with regard to national policies as set out in the Framework. A statement is made to how the Neighbourhood Plan has specifically responded to paragraphs 16, 183, 184 and 185 of the Framework.

63. The Neighbourhood Plan includes a positive vision for sustainable growth that incorporates social, environmental and economic elements. This is consistent with the Framework’s underlying principles and specifically, the need to jointly and simultaneously seek economic, social and environmental gains through the planning

<sup>25</sup> 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

<sup>26</sup> 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)

system. The vision refers to “*housing growth at Wingrave*”; “*the gradual provision of new homes*”; and “*a growth in employment opportunities*”. These statements are consistent with the components of the Framework relating to ‘delivering a wide choice of high quality homes’; ‘building a strong, competitive economy’; and ‘supporting a prosperous rural economy’. The statement in the vision relating to community facilities being improved and becoming more varied is consistent with the components of the Framework relating to ‘promoting healthy communities.’ References in the vision to “*distinctive character*”; “*special historic and architectural character*” and “*quality of the landscape*” are consistent with the components of the Framework relating to ‘conserving and enhancing the natural environment’ and ‘conserving and enhancing the historic environment.’

64. The Vision is further supported by nine objectives relating to environment, new homes, community facilities, and local economy. The objectives of the Neighbourhood Plan are consistent with the core planning principles of the Framework.

65. The Neighbourhood Plan taken as a whole seeks to shape and direct development. This is precisely the role national policy envisages for a neighbourhood plan.

66. Apart from those elements of policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets 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 plan.*”

67. 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.<sup>27</sup> The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental,*

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<sup>27</sup> Paragraph 14 National Planning Policy Framework 2012

*economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions<sup>28</sup>.*

68. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

69. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes a section that seeks to demonstrate the economic, social and environmental attributes of the Neighbourhood Plan.

70. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by providing for a significant level of growth in Wingrave, and limited development in Rowsham, whilst affording protection to the surrounding countryside. In particular, I consider the Neighbourhood Plan seeks to:

- Provide for housing growth within Wingrave on three identified sites of which 35% shall be affordable homes subject to viability considerations;
- Provide for new infill housing development in Rowsham;
- Ensure new development is of good quality design;
- Support proposals that will lead to additional employment at four specified locations and to resist loss of existing employment uses throughout the Plan area;

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<sup>28</sup>National Planning Policy Guidance (Ref ID:41-072-20140306)

- Provide for development in the countryside that will benefit the rural economy;
- Support proposals that improve the viability of established community facilities and resist loss of such facilities;
- Designate Local Green Spaces in six locations.

71. I note the Neighbourhood Plan includes an Implementation Section (section 5). The projects identified do not form part of the Neighbourhood Development Plan and as such have not been considered as part of this independent examination. The proposed projects would not be the subject of any referendum and would not become part of the Development Plan for the area.

72. The Neighbourhood Plan preparation process is a convenient mechanism to surface and test local opinion on projects considered important in the local community and which may be prioritised in future CIL and other funding decisions. It can be appropriate for a Neighbourhood Plan to establish priorities for the utilisation of Community Infrastructure Levy funds where reference relates to the development and use of land and can inform development management decision taking. However, the projects listed in the Neighbourhood Plan are in the most part little more than general headings and only “*some or all*” of them are proposed for receipt of future funding. It is also stated the list “*provides the local community with an indication of the priorities for investing the fund...*”. An indication is not sufficient to represent a commitment but clearly offers an aspiration. The Guidance states, “*Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non land use matters should be clearly identifiable. For example, set out in a companion document or annex.*” I recommend a modification in accordance with the Guidance.

**Recommended modification 1:**

**The Infrastructure Projects section of the submission plan should be transferred to a non-statutory annex to the Neighbourhood Plan**

73. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in

guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether 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)

74. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.<sup>29</sup> “*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*”.<sup>30</sup>

75. The Guidance states, “*A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.*”<sup>31</sup>

76. In this independent examination I am required to consider whether 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 District Council has informed me that the Development Plan applying in the Wingrave with Rowsham neighbourhood area and relevant to the Neighbourhood Plan comprises the Adopted 2004 Aylesbury Vale District Local Plan Saved Policies, and that all of the saved policies are considered to be strategic.

77. As the Local Plan Saved Policies predate the Framework, the Framework takes precedence where there is a conflict. There is no requirement for a neighbourhood plan to include particular types of development and land use policies, nor is there any requirement for a neighbourhood plan to deal with any particular development and land use issues.

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<sup>29</sup> Paragraph 16 National Planning Policy Framework 2012

<sup>30</sup> Paragraph 184 National Planning Policy Framework 2012

<sup>31</sup> National Planning Policy Guidance (ID: 41-04720 140306)

78. The Neighbourhood Plan states “*the emerging Vale of Aylesbury Local Plan (VALP) will include the overall strategy for the district, alongside site allocations and development management policies*”. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Local Plan is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning policy is subject to change as plan preparation work proceeds.<sup>32</sup> The Guidance states “*Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan*”. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

79. In considering a now repealed provision that “*a local plan shall be in general conformity with the structure plan*” the Court of Appeal stated “*the adjective ‘general’ is there, “to introduce a degree of flexibility.”*<sup>33</sup> The use of ‘general’ allows for the possibility of conflict. Obviously there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

80. The Guidance states, “*When considering whether a policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

- *whether the neighbourhood plan policy or development proposal supports and upholds the general principle that the strategic policy is concerned with*
- *the degree, if any, of conflict between the draft neighbourhood plan policy or development proposal and the strategic policy*
- *whether the draft neighbourhood plan policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic policy without undermining that policy*

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<sup>32</sup> The District Council has work underway to prepare The Vale of Aylesbury Local Plan. The Local Development Scheme dated December 2014 indicates adoption is intended in July/August 2017

<sup>33</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.*<sup>34</sup>

81. My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance. If there were to be a conflict between a policy in a neighbourhood plan and a policy in a local plan the conflict must be resolved in favour of the policy contained in the last of those plans to become part of the Development Plan.<sup>35</sup> The Neighbourhood Plan cannot therefore prejudice the emerging Local Plan in this respect.<sup>36</sup> I conclude the Neighbourhood Plan can proceed to being ‘made’ in advance of the emerging Local Plan being adopted.

82. Consideration as to whether 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) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## **The Neighbourhood Plan policies**

83. The Neighbourhood Plan includes 8 policies:

Policy 1: A Spatial Plan for the Parish

Policy 2: Land South of Twelve Leys, Wingrave

Policy 3: Land North of Baldways Close, Wingrave

Policy 4: Land South of Leighton Road, Wingrave

Policy 5: Design

Policy 6: Local Employment

Policy 7: Wingrave Community Facilities

Policy 8: Local Green Spaces

<sup>34</sup> National Planning Policy Guidance (ID ref: 41-074 201 40306)

<sup>35</sup> Section 38(5) Planning and Compulsory Purchase Act 2004

<sup>36</sup> See paragraph 103 of the Judgement in *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC 1470 (Admin)

84. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. 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.” “Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*<sup>37</sup>
85. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*
86. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*
87. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.”*<sup>38</sup>
88. 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 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.

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<sup>37</sup> Paragraphs 184 and 185 National Planning Policy Framework 2012

<sup>38</sup> See section 38(6) of the Planning and Compulsory Purchase Act 2004.

89. Several policies include the phrases “*will be permitted*” or “*will not be permitted*”. With regard to the issue of decision making the Framework states “*the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise*”. This basis for decision making should be made clear through inclusion of an introductory statement, and policies should use the term “will be supported” or “not be supported” in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states development will be permitted or not permitted. I have recommended a modification so that the basis of decision making on planning applications should be clarified.

**Recommended modification 2:**

**The basis of decision making on planning applications should be clarified through inclusion of an introductory statement and policies should state “will be supported” or “will not be supported” instead of “will be permitted” or “will not be permitted”**

**Policy 1: A Spatial Plan for the Parish**

90. This policy seeks to designate a Wingrave settlement boundary for the purposes of directing new housing development. The policy seeks to establish an approach to development outside the Wingrave settlement boundary whereby only development for specified purposes will be permitted. The policy also establishes conditional support for new infill housing development in Rowsham.

91. Whilst the Policy designates a Wingrave settlement boundary “*for the purposes of directing new housing development*” it does not adequately explain the way this will be achieved. Policy 1 does not explicitly support housing development within the settlement boundary. In this respect the policy fails to pay sufficient regard to plan positively to support local development and the policy does not adequately demonstrate a presumption in favour of sustainable development.

92. The supporting text to the policy states the Wingrave settlement boundary has been defined to include land that is proposed for allocation for housing development in Policies 2,3 and 4. The

supporting text also refers to any windfall housing schemes that are consented. The wording of the policy does not reflect these statements. In order to ensure the policy has sufficient regard for national policy a modification is necessary. I recommend the policy should support development proposals within the Wingrave settlement boundary. In the absence of this modification the policy would not have sufficient regard for national policy and indeed this issue is of such significance that the Neighbourhood Plan should not proceed to referendum without the modification.

93. It is not in the interests of clarity for one Plan policy to state it applies “over the plan period” when all the Plan policies apply throughout the Plan period. Policies should be self-contained. It is not necessary to state “*subject to other policies in this Plan*”. I recommend modification in these respects in the interests of clarity.

94. A representation states Rowsham can accommodate a further 30 dwellings, and had a proper site selection process been prepared the village would have had the opportunity to decide accordingly. Two other representations state Rowsham should be contained within a clearly defined settlement boundary and that consultation responses support this view. One of these representations also states no reference to a request for a green space in Rowsham can be found in the Consultation Statement. With respect to this latter matter I have earlier in my report set out the statutory requirements relating to the Consultation Statement. My role does not extend to checking that the Neighbourhood Plan precisely corresponds with, or is cross referenced to, the Consultation Statement. It is also not within my role to recommend a modification of the Neighbourhood Plan to include an additional policy component defining and establishing a Rowsham settlement boundary, nor to select and allocate a site for housing development in Rowsham. I am satisfied the component of the policy that establishes conditional support for new infill housing development in Rowsham meets the basic conditions.

95. The relationship between the second and third paragraphs of the Policy is unclear. It should be made clear that infill development in Rowsham will not be regarded as development in the countryside. I recommend a modification in this respect. The map at Page 42 of the Submission Plan leaves gaps in the boundary of the Wingrave settlement boundary at Tring Road and Mill Lane in order to accommodate street names. I recommend a modification so that the map shows a continuous boundary. These modifications will result in the Neighbourhood Plan providing a practical framework within which

decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework.

96. 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;* • *promote the development and diversification of agricultural and other land-based rural businesses;* • *support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres; and* • *promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship”* and *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:* • *the essential need for a rural worker to live permanently at or near their place of work in the countryside; or* • *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or* • *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or* • *the exceptional quality or innovative nature of the design of the dwelling. Such a design should:* – *be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;* – *reflect the highest standards in architecture;* – *significantly enhance its immediate setting; and* – *be sensitive to the defining characteristics of the local area.”*
97. The national policy approach to development in open countryside is clear. By contrast Policy 1 uses the term *“not result in the loss of open land that contributes to the form and character of Wingrave and Rowsham.”* This term is imprecise and will not provide sufficient clarity

to allow the policy to function as a practical framework for decision taking as required by paragraph 17 of the Framework. In addition, the approach of the Policy to development in the countryside should more closely reflect national policy by making reference to tourism. I recommend modification in these respects also.

98. A number of representations relate directly to the designation of the Wingrave settlement boundary and the approach to development outside that boundary. A number of other representations relate to the method deployed, and the points scoring system used, in the selection of those site allocations in Wingrave proposed through Policies 2,3 and 4. As the Wingrave settlement boundary has been drawn to include those housing site allocations I have taken those representations into consideration in respect of Policy 1 also.

99. Representations concerning the site selection method deployed include:

- Sites have been assessed in terms of their total size but partial development of them has not been considered. In this context sites F and H (Bell Leys/Abbotts Way) were assessed as a single site, and not selected for allocation on the basis of being too large. The representation states information considered in the site was not the most up to date and accurate information and the site is available now, in a suitable location, achievable, and viable. It is stated there is a current proposal for 30 dwellings, with associated development and public open space. It is stated the scoring of the site in the Neighbourhood Plan site assessment was based on a presumed capacity of 146 dwellings.
- Criteria have not been uniformly applied. Most of the criteria used to reject other suitable sites within the village all apply to Twelve Leys.
- Organising sites into clusters for voting purposes removed the ability to express preferences in respect of individual sites.
- Criteria have not been assessed consistently. Several representations offer a view that scoring should be different to that given.
- Land south of Winslow Road Twelve Leys scored a 6 for protection of rural nature of the village, its lanes and footpaths and should have scored a 1.

- A representation puts forward an alternative assessment of site reference H and site reference F.
- It is inconsistent that the Bell Corner/Abbotts Way site is not selected on access and sewage grounds when there are significant problems in these respects at Twelve Leys.
- Rejection of two other sites included resident's car parking grounds, whereas developers would be asked to make provision for existing residents at Twelve Leys.
- The impact of backland development has not been recognised in the points scoring system.
- Large sites are available at land on the south side of Leighton Road and north side of Mill Lane. Development at Leighton Road would have very little impact on the current residents. A major site providing easy access to the A418 whilst avoiding many problems associated with other sites was ignored.
- A single large site would allow provision of a larger proportion of green space, other facilities and controlled access to the main through road.
- Important criteria were not included.
- The village boundary as depicted seems somewhat arbitrary with no obvious defensible boundary established which has logical consistency of screening vegetation, break-of-slope or other landmark.
- The village boundary must have an unimpeachable logic that is clearly defensible in the long-term.
- Traffic chaos in the centre of the village that will result from the sites selected has not been considered.
- Site selection does not have regard to national policy and advice contained in the Guidance in terms of availability, suitability and achievability.
- Criteria used were not weighted.
- Land north of Winslow Road (Site 4, Site reference F and Site 5 Site reference H) already has a developer eager to proceed with plans already in place.

- The selection of sites was carried out using a detailed metric allocating points to features of the sites. The process seems to have been objective and eminently sensible.
- The resultant Plan involves more than just the selection of sites; it also involves consideration of the way in which development of the chosen sites should be permitted.
- A properly planned approach will at least ensure any future development is appropriate to the area and will restrict speculative developers making unsuitable planning applications.
- Although there are some concerns over the proposed development sites these are preferable to any other potential sites which have either more severe issues relating to access and traffic, or have other implications and therefore, the proposed sites are the best possible option for Wingrave.
- A representation submitted by the Parish Council includes *“the first opportunity the Parish Council had to consider the latest Carey’s proposal was at its meeting on 15th December 2015. By the time it was considered the Council had already given its approval to the Neighbourhood Plan. Perhaps more importantly, the process of site assessment and selection related to the sites themselves and not to any developer’s proposal of which the Parish Council might or might not have been aware. Thus when considering the housing capacity of the site no account could or should have been taken of the Careys original outline proposal of which we were at that time aware. The Parish Council had and has considerable reservations about the development of the site in question and Careys New Homes is aware of that. But, once the Parish Council had approved the site selection which the Parish Community had made, whilst it could and did listen to the new proposals from Careys New Homes it could not respond other than negatively to them”* and *“Many of the criteria had emerged from community consultations over a period of 2 years starting with the Community Plan. The process of assessment required every person taking part in it to receive training. Each site was subjected to a 2 stage desk top assessment, each site was visited, each site was assessed against the 12 criteria and awarded a mark under each criterion. The scores of each site were then compared. The four sites selected to go forward for the community to make its choice were grouped into combinations each of which would provide*

*roughly the number of dwellings needed. The Careys New Home site scored poorly under five criteria and only adequately under another four. Its scores were significantly lower than those achieved by any of the four sites that went forward. Nobody who could be perceived to have any sort of interest in a site was allowed to participate in the assessment of that site. Subsequent to the site selection having been made, the Parish Council commissioned an independent report on the process. The report was prepared by Mr Roy van de Poll a Councillor from Winslow who had played a major role in the development of Winslow's successful Neighbourhood Plan. In his report he said: 'The method of scoring for each site against each criterion appears sound. In my view, this is a very impressive and robust document which stands up to rigorous scrutiny and substantially underpins the choice of the four sites'."*

100. The Guidance states where a Neighbourhood Plan allocates sites an appraisal of options and an assessment of individual sites against clearly identified criteria must be undertaken. Links are provided to 'Housing and economic land availability assessment' and 'viability' within the Guidance. The Guidance states "*it is the role of the assessment to provide information on the range of sites which are available to meet need, but it is for the development plan itself to determine which of those sites are the most suitable to meet those needs.*" I have already referred to the part of the Guidance that states "*While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no 'tick box' list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan*".

101. The Site Assessment Report sets out the method and results of the site selection process. Sites have been scored against 12 stated criteria. Scores have been assigned according to the judgement of the Steering Group. Scores have been arithmetically correctly added to produce a total score for each site. The Site Assessment Report states "*Each site was given an indicative score based on the extent to which it related to the above measures. This informed the next stage of formulating the spatial plan, assessing the policies alongside the SEA objectives framework and the consultation on site allocation options. It was not intended to provide a definitive result of which sites would be allocated in the Plan. It did inform the selection of 'clusters' of development sites to be included in further consultation.*" "Of the 22

*submissions only four of the sites had no scores in the “red zone” of 1-3, implying that there were no serious restrictions to designating the site as a serious contender to be included in the plan. They also had total scores in the 80s and 90s. All other sites had at least one “red zone” score, and a total score between 45 and 67. The selected sites were B0, A11, J&K and G. These four sites were therefore selected for the public consultation event in February 2015, but offered in “clusters” of three sites each. These were all of the possible combinations of the four sites into four site groups of three. Three sites in each group were necessitated by the aim of the plan to produce a plan with a total of around 100 houses, at a density of 20 dwellings per hectare. The final selection of the ‘cluster’ of 3 sites was made by the Parish Council on the basis of the cluster that received most support at the consultation events. This cluster was B0, A11 and J&K”.*

102. I am satisfied the Site Assessment Report has provided information on a reasonable range of sites which are available to meet need and that the Neighbourhood Plan has determined which of those sites are the most suitable to meet those needs. I have stated earlier in my report that it is not within my role to test the soundness of the Neighbourhood Plan. In this context it is not within my role to test the soundness of the approach adopted, nor to test whether the strategy adopted is the most appropriate. Independent examination of a neighbourhood plan cannot consider whether the proposed strategy is justified by a proportionate evidence base<sup>39</sup>.

103. The Framework states “*all plans should be based upon and reflect the presumption in favour of sustainable development*”<sup>40</sup> and critically it will mean that neighbourhoods should “*plan positively to support local development*”<sup>41</sup>. It is necessary to consider whether or not Policy 1 has sufficient regard to these components of the Framework.

104. The Neighbourhood Plan includes a tightly drawn Wingrave settlement boundary. A settlement boundary tightly drawn around the existing built form of a settlement is rarely likely to be acceptable in the absence of identification of sites to accommodate new housing development to meet local needs. The Wingrave settlement boundary proposed to be designated by Policy 1 provides opportunity for new homes within the settlement boundary and conditional opportunity for

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<sup>39</sup> Woodcock Holdings Ltd and Secretary of State CLG and Mid Sussex District Council 2015 EWHC 1173 (Admin)

<sup>40</sup> Paragraph 15 National Planning Policy Framework 2012

<sup>41</sup> Paragraph 16 National Planning Policy Framework 2012

new homes beyond the settlement boundary. I consider Policy 1 does plan positively to support local development.

105. The Wingrave settlement boundary is drawn to include the development sites allocated in Policies 2,3 and 4. Development on the three allocation sites referred to does not represent all the development of homes that the Neighbourhood Plan envisages. Policy 1 does not place any cap on the number of dwellings that can be built within the Wingrave settlement boundary. The Neighbourhood Plan also envisages some residential development will occur outside the Wingrave settlement boundary subject to limiting criteria, and recognises infill development will occur at Rowsham. Policy 1 does not limit or cap the amount of development that can occur in the Plan area. The overall approach to new housing development is consistent with the role for Neighbourhood Plans identified in the Framework to shape and direct development in their area, and is consistent with the presumption in favour of sustainable development.

106. The Neighbourhood Plan states the allocations “*will deliver in the region of 100 new dwellings, in addition to any ‘windfall’ schemes that are consented. This will represent an increase of approximately 16% in the number of households in the village.*” This level of development will boost significantly the supply of housing in the Neighbourhood Area.

107. I have earlier in my report concluded that the Neighbourhood Plan can proceed in advance of the emerging Local Plan. The Guidance has on 11 February 2016 been revised as far as it relates to these circumstances.<sup>42</sup> Stakeholders may question whether this revision to the Guidance should be considered in that the Neighbourhood Plan has reached a very advanced stage of preparation. Indeed, the Neighbourhood Plan was submitted to the District Council before the Guidance was revised however the Regulation 16 period for representations occurred between 22 February and 11 April 2016 after the revised Guidance was published and indeed there is reference to the revised Guidance in representations. A neighbourhood plan meets the basic conditions if (inter alia) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan. In this respect I have concluded the Basic Conditions require my consideration of all Guidance that has been issued by the

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<sup>42</sup> National Planning Practice Guidance Paragraph:009 Reference ID: 41-009-20160211

Secretary of State up to the time of me issuing my report of Independent Examination.

108. The Guidance states: *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- *the emerging neighbourhood plan*
- *the emerging Local Plan*
- *the adopted development plan*

*with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”<sup>43</sup>*

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<sup>43</sup> Paragraph: 009 Reference ID: 41-009-20160211 Planning Practice Guidance

109. I am mindful of the fact that should there ultimately be a conflict between the Neighbourhood Plan, and the Local Plan when adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan, however the Guidance is clear in that potential conflicts should be minimised.
110. Policy 1 should be considered as a relevant policy for the supply of housing in so much as it makes provision for development proposals on allocated sites within the defined Wingrave settlement boundary and because of its approach to development proposals beyond that defined boundary.<sup>44</sup> The Guidance states *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”*<sup>45</sup>
111. It is not the function of a neighbourhood plan to prepare strategic planning policies to meet assessed needs over a Local Plan area<sup>46</sup>. The District Council has provided a strategic context and the latest and up-to-date evidence of housing needs through work involved in the preparation of The Vale of Aylesbury Local Plan. At the time the Neighbourhood Plan was submitted to the District Council VALP had completed the Issues and Options stage but not reached the Draft Plan stage. In a Regulation 16 representation the District Council stated *“The Vale of Aylesbury Local Plan (VALP) Issues and Options (October 2015) identifies Wingrave as a ‘Large Village’ where 100-120 homes are potentially expected to be delivered to meet the district wide housing need. The VALP is not yet in a position to identify the final housing target that includes a contribution to meeting the unmet needs of neighbouring districts in southern Buckinghamshire. However, the likelihood is the overall housing target will be higher than the 31,000 set out in the VALP Issues and Options. The housing target will be revised as a final target in the Draft Plan (summer 2016) and the Proposed Submission Plan (Winter 2016-17) leading to an adopted plan in summer 2017. Therefore, the Neighbourhood Plan should be*

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<sup>44</sup> The Court of Appeal judgment [2016] EWCA Civ 168 17 March 2016 concerning the meaning and effect of government policy in paragraph 49 of the Framework. A relevant policy for the supply of housing includes both policies providing positively for the supply of new housing and other policies (counterpart policies) whose effect is to restrain the supply by restricting housing development in certain parts of the authority’s area.

<sup>45</sup> Paragraph: 040 Reference ID: 41-040-20160211 Planning Practice Guidance

<sup>46</sup> Gladman Developments v Aylesbury Vale District Council 2014 EWHC 4323 (Admin)

*made before the Local Plan and may need an early review to remain in general conformity with the adopted VALP which could potentially require a higher housing contribution for Wingrave and Rowsham than that in the submitted neighbourhood plan. Neighbourhood Plans cannot set a maximum number of housing or just be used to prevent development from coming forward. A further point regarding VALP is that the settlement hierarchy referred to is only draft and may lead to a change to the status of Wingrave and Rowsham in the hierarchy and the level of growth required to meet the district-wide growth needs. A Draft Plan with a revised settlement hierarchy will be published in the coming months in line with the above timetable. In addition, attention is drawn to the February 2016 update to the Planning Practice Guidance sections on neighbourhood planning which set out that neighbourhood plans should consider allocating reserve sites to ensure that emerging evidence on housing need can be addressed. AVDC is therefore concerned that the settlement boundary has been drawn too tightly and excludes potentially suitable sites including Sites H/F (known as WGR004 in the Aylesbury Vale HELAA – see below) and Site T (known as WGR001 in the HELAA). Later in my report I refer to a VALP Scrutiny Committee version of the Draft Plan that the District Council has published on 3 June 2016 which it is anticipated will be considered by Full Council on 28 June 2016.*

112. It is necessary to consider whether or not Policy 1 which is relevant to housing supply demonstrates that it has taken account of latest and up-to-date evidence of housing need. In a representation the Parish Council states *“the total number of dwellings in the plan is in agreement with discussions and advice received from AVDC officers”*. The Neighbourhood Plan does include in Section 4.10 a demonstration of having considered the latest up to date housing needs information available at the time of plan preparation. The Site Assessment Report confirms *“the aim of the plan to produce a plan with a total of around 100 houses, at a density of 20 dwellings per hectare”*. I am satisfied it is appropriate that the Neighbourhood Plan should be made having regard to the Guidance issued by the Secretary of State with respect to taking account of latest and up-to-date evidence of housing need when seeking to introduce a policy relevant to housing supply.

113. The Neighbourhood Plan proposes approximately 100 dwellings should be accommodated on the three sites allocated in Policies 2,3 and 4. In a representation the Parish Council states it *“has held meetings with the developers of the plan sites and all developers have indicated that they can move quickly if required”*. The District Council estimate the three sites allocated in Policies 2,3 and 4 are capable of

accommodating 36 dwellings in total and is concerned that the settlement boundary has been drawn too tightly and excludes potentially suitable sites including Sites H/F and Site T. There is clearly a considerable difference between the District Council estimate of 36 dwellings and the estimate in the Neighbourhood Plan of approximately 100 dwellings. I have considered whether this difference could be resolved through adequate examination of the issue at a Neighbourhood Plan hearing. I have concluded a resolution of this difference, that would be necessary in order to produce an agreed indicative delivery timetable, can only be resolved through the preparation of detailed development schemes for the sites and their evaluation through the process of determination of planning applications. In the absence of those circumstances I take the view that there must be some element of doubt that a total of 100 dwellings will be delivered on the three sites allocated for development in the Neighbourhood Plan. This would appear to me to be a situation where the identification of additional or reserve sites is wholly appropriate. I recommend a modification of the Neighbourhood Plan to include provision for identification of additional or reserve site housing development land.

114. In reaching this conclusion I have taken into account the provisions of the Framework relating to demonstration of a five year supply of housing land and the position in Aylesbury Vale<sup>47</sup>. In the context of paragraph 49 of the Framework whenever a five-year supply can be demonstrated during the plan period, Policy 1 once part of a made Neighbourhood Plan, should be regarded as up to date. I have also taken into account the representation of the Parish Council that they intend to review the plan “*as necessary and within 5 years at the latest*”. This commitment to review represents good practice, however the plan period of the Submission Plan is to 2033 and it is in that context that I have concluded the Neighbourhood Plan should include provision for identification of additional or reserve site housing development land.

115. The District Council has published a Vale of Aylesbury Local Plan Draft Plan for Summer 2016 Consultation that will be considered by Full Council on 28 June 2016 for issuing as a Draft Plan. This Plan states 124 new homes are required in Wingrave which is a relatively small increase from the figure stated by the District Council in the representation on the Neighbourhood Plan. It should be noted the Summer 2016 Consultation Draft Plan states “*The housing*

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<sup>47</sup> Aylesbury Vale District Council Position Statement for the Council's 5 Year Housing Land Supply (January 2016)

*requirements and associated policies set out in this section do not carry any weight at this stage” and “The figures presented here may not represent the final figures to be taken forward in the pre-submission plan.”*

116. Representations that promote additional or alternative site allocations include:

- The settlement boundary in relation to land south of Leighton Road should be adjusted so as to increase the size of the site allocated for housing development through Policy 4.
- Land to the north of Winslow Road and east of Abbots Way (Sites H/F) should be proposed for residential development. It is stated there is a current proposal for 30 dwellings, with associated development and public open space.
- Site T (WGR001 in the HELAA) is partly suitable for around 21 homes to the front of the site.

117. The District Council Regulation 16 representation states *“The assessment of potential sites has not been carried out comprehensively or accurately. Sites H/F – AVDC considers this to be one of the more suitable sites in the village, albeit around 2.5ha for around 50 homes. Any visual impacts can be minimised by a development following the curve of Winslow Road. Any surface water flooding matters can be tackled by an agreed sustainable drainage system (the site is not in medium or high flood risk). The County Council has confirmed that the site can be provided with a satisfactory highway access. The site was also considered as one large site (as in the Aylesbury Vale HELAA Report) rather than as two sites which has influenced the scoring. As the site is the subject of a planning application we believe its potential as a smaller site should have been considered. Site T - AVDC considers this site (WGR001 in HELAA) to be partly suitable for around 21 homes to the front of the site which has no significant constraints”. “There are twelve sites that AVDC has assessed in the Housing and Economic Development Land Availability Assessment (HELAA) (October 2015) - two sites are suitable for housing and two are part suitable, altogether leading to a potential delivery of 85 homes. Of these only one is a neighbourhood plan proposed allocated site (Policy 3 site) and therefore there is potential for particularly the Policy 4 site, at around 15 homes to address constraints, to make a valuable contribution to the likely housing target. The site is one of the few in the village and the designation of Site T as a Local Green Space is unduly restricting the potential of the site for future development”*. I have noted the District Council has

published a revised version HELAA in May 2016 that indicates a potential delivery of 112 homes at Wingrave on six sites that include the three sites allocated through Policies 2, 3 and 4 of the Neighbourhood Plan which remain regarded as part suitable.

118. The agent for a client with an interest in the site north of Winslow Road and east of Abbots Way states *“The principle of allocating a range of smaller sites to meet the housing need is accepted by my client and is considered appropriate for the village of Wingrave. The current proposal is for 30 homes, with associated development and public open space.”* It is stated that the site assessment was based on *“146 dwellings which is nearly 5 times the scale of development being proposed by my client.”* The representation states the site is available now, offers a suitable location, is achievable, and viable.

119. In a representation the Parish Council has identified its objections to the site north of Winslow Road and east of Abbots Way as follows:

- *“Access to the development is poor, a problem exacerbated by the fact that the majority of dwellings on the access road are for elderly and infirm.*
- *The access goes out onto the main road immediately opposite the local primary/junior school drop-off and pick-up point.*
- *The proposed pedestrian access route is potentially dangerous.*
- *There is a history of flooding in that part of the site used for building.*
- *The estimate of traffic flows to and from the development is substantially too low.*
- *The proposal runs counter to the Neighbourhood Plan.*

*The majority of the Community, who attended the presentation of the proposal by Careys, indicated they did not wish the development to go ahead. Careys offer to make over a substantial part of the site for the community also raises substantial problems in terms of development management, use and cost and it cannot be assumed that the Parish Council will wish to take the land over”.*

120. Other representations have stated development at Leighton Road is inappropriate citing grounds that include landscape and traffic.

121. Whilst it is not within my role to select precise additional or reserve development sites on behalf of the Wingrave with Rowsham community, representations have promoted alternative or additional sites for development. A proposal relating to land east of Abbots Way

has been progressed through submission of a planning application for 30 homes. The District Council has informed me that on 8 June 2016 the Strategic Development Committee of the Council resolved to approve this planning application subject to a Section 106 agreement and that implementation of the scheme will need to be commenced within three years. My understanding of such a situation is that the District Council is mindful to grant planning permission. It is evident there is at least this one site capable of consideration as an additional or reserve housing development site. The benefits or disbenefits of any particular additional or reserve site, relative or not to the allocated sites, are not a matter for my consideration.

122. I have earlier in my report concluded that the Neighbourhood Plan contributes to the achievement of sustainable development as required in order to meet the Basic Conditions. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy is in general conformity with the strategic policies contained in the Development Plan, the Adopted Aylesbury Vale District Local Plan Saved Policies. I have earlier in my report referred to the need to clarify the basis of decision making on planning applications by use of the term “supported” rather than “permitted”.
123. Subject to the recommended modifications the policy has regard to the components of the Framework concerned with supporting a prosperous rural economy, conserving and enhancing the natural environment, and delivering a wide choice of high quality homes. Subject to the recommended modification this policy meets the basic conditions.

### **Recommended modification 3:**

#### **In Policy 1**

- **After “Policies Map” delete the remainder of the sentence and insert “within which proposals for new housing development will be supported.”**
- **The Policy should include provision for identification of additional or reserve site housing development land that could be developed should the sites allocated in Policies 2,3 and 4 not deliver a sufficient number of dwellings to meet updated assessment of housing need**
- **The Wingrave Settlement Boundary shown on the Policies Map should be continuous**
- **Delete “permitted” and insert “supported”**

- In the third paragraph before “Development proposals” insert “Apart from infill housing in Rowsham”
- In the third paragraph delete “or recreation” and insert “, recreation or tourism”
- Delete the final sentence and insert “New isolated homes in the countryside will not be supported except in the special circumstances described in paragraph 55 of the Framework”

## **Policy 2: Land South of Twelve Leys, Wingrave**

124. This policy seeks to allocate 1.62 hectares of land north of Nup End Lane Wingrave for housing development of approximately 30 dwellings. Development proposals will be supported provided they accord with ten stated principles.
125. Historic England supports the approach of the Policy to the protection of the setting of the adjacent heritage asset but recommend the heritage asset should be named in order to avoid any confusion. I have recommended an appropriate modification so that the Policy provides a practical framework for decisions on planning applications in accordance with paragraph 17 of the Framework. Historic England also see the requirement to retain existing hedgerows as an important element of protecting the historic landscape character of the village edge location. The policy includes provision that existing hedgerows should be retained and improved on the site boundaries. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations. It is not appropriate for the Neighbourhood Plan to seek to introduce an alternative regime of protection. I recommend a modification in this respect.
126. A representation on behalf of a party stated to have a significant land interest in land proposed for housing development through this policy states:
- Specification of an approximate number of dwellings is unnecessarily prescriptive and inflexible. A range of 30-45 dwellings is suggested to offer flexibility in meeting “*other plan requirements including a mix of dwellings and much-needed affordable housing*”.
  - The affordable housing requirement should be 30% not 35%.

- The requirement for a car park does not meet the Community Infrastructure Regulations 2010 and that it is not for the development to resolve pre-existing situations outside the site.
- The requirement that the public right of way should remain on the existing alignment unnecessarily restricts development proposals.

127. Other representations state:

- The site is not identified as a suitable site in the SHLAA 2013 where it is considered to be poorly related to the built-form and has poor highway access; not identified in the Call for Sites 2014; and not identified as suitable in the HELAA 2015. *“The evidence does not support the identification of this site as a preferred allocation for development and hence an objection is raised.”*
- Traffic associated with the proposed development will add to existing congestion and road safety issues particularly for the elderly, and children especially at school drop-off and pick-up times.
- Backland development will have a significant effect on current residents through overlooking, a feeling of crowding, and spoiling views.
- Twelve Leys is already the biggest development in the village. To make it larger is not consistent with the preference of villagers for smaller building developments.
- Sewage problems are experienced from Nup End through Twelve Leys and down Abbots Way.
- The proposed parking arrangements are impractical and it is unclear how “exclusive use of residents” would be policed.
- Nup End is historically a separate settlement to Wingrave and the land provides a natural distinction that should be retained as an important settlement characteristic.
- Development would affect properties with no foundations which may include the Listed Nup End Farm.
- Development will result in loss of a footpath through a field route and destroy the tranquillity of the walk down Nup End Lane.

- Issues are raised regarding flooding, microclimate, and wildlife.
- The proposal adversely affects an area of attractive landscape contrary to Policy RA8 of the Local Plan.

128. The District Council states *“This site is known as site WGR003 in HELAA. The site is in an Area of Attractive Landscape and there are some prominent views to the Chiltern Hills (AONB) from an elevated position. There are also mature trees that may be home to bats on the site. On this basis the site is considered to have a realistic capacity of around 15 homes to the front of the site rather than the 30 in the neighbourhood plan. In terms of highway access there are no concerns as the access is to be from Twelve Leys (the site could not be accessed through Nup End Lane as this carriageway is too narrow to accommodate simultaneous two-way vehicle flow). In the HELAA, in terms of site WGR003, Buckinghamshire County Council have now been satisfied that a highway access can be provided and as long as this is through Twelve Leys that will not have an adverse impact. Therefore, this will be reflected in the next update/revision to the HELAA report due in the next month. The concerns to developing the entire site on the grounds of landscape/character will remain.”*

129. Representations have suggested the number of dwellings that can be accommodated on the site should both be increased and decreased. I have earlier in my report concluded that precise capacities of sites can only be determined in the context of detailed development proposals and determination of planning applications. I have recommended the Neighbourhood Plan should be modified so as to include provision for identification of additional or reserve site housing development land.

130. The District Council also states *“There is reference to a car park being provided (in Policy 2 (vii) and Policy 4 (iv)) in two of the allocated sites for other residents. CIL Regulation 122 states that a S106 obligation can only be a reason for refusal if the benefit being sought is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Given that the car parking provision is being made for existing residents rather than the future occupiers of the new housing it is not considered that the car parks are necessary to make the developments acceptable in planning terms unless there is a highway issue that the provision will resolve. No such issue has been identified by the highway authority so the proposed S106 Agreements do not meet the relevant regulations or paragraph 204 of the NPPF. They should therefore be deleted from*

*the submitted plan*". I agree with this representation and have recommended an appropriate modification to the Policy that is also based on the circumstances of an unwilling significant land interest.

131. Saved Policy RA 8 of the Local Plan does not preclude development but requires proposals to respect the landscape character. Paragraph 75 of the Framework states planning policies should protect and enhance public rights of way.

132. The Basic Conditions Statement states "*The policy replaces the provisions of saved policy GP2 by requiring 35% of total new homes to be provided as affordable. The saved policy was replaced by the adopted Aylesbury Vale Affordable Housing SPD in 2007 and then by the South East Plan. Although the South East Plan has since been revoked, the District Council has continued to successfully apply its 35% proportion in its development management decisions. Further, a viability assessment of affordable housing policy for the District of 2012 (see the 'VAP & Community Infrastructure Levy Viability Study' in the evidence base) concluded that viability would not be an issue arising from affordable housing requirements at this level in this type of location in the District*". Whilst the requirement of 35% provision as affordable homes on-site, exceeds the 30% maximum rate specified in saved policy GP2 the Neighbourhood Plan policy recognises that divergence from the stated requirements may occur on the basis of a viability calculation. I also note the evidence of local need and the significance assigned to the provision of affordable homes by the community. I am satisfied the affordable housing requirement meets the basic conditions.

133. With respect to the representations, including those made in respect of the site selection method deployed referred to earlier in my report, it is my opinion that, subject to the recommended modifications, there are no issues raised that would prevent it being appropriate for development of the site to occur having regard to national policies and advice in guidance issued by the Secretary of State. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy is in general conformity with the strategic policies contained in the Development Plan, the Adopted Aylesbury Vale District Local Plan Saved Policies.

134. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes, promoting healthy communities, conserving and enhancing the natural environment and conserving and enhancing the historic environment.

Subject to the recommended modifications this policy meets the basic conditions.

**Recommended modification 4:**

**In Policy 2**

- **Delete principle vii**
- **Replace x. a. with “Sustains and enhances the significance of the adjoining building at Nup End Farm and its setting providing a buffer between buildings and the asset;”**
- **Replace x. c. with “Retains trees on the site boundaries; and”**

**Policy 3: Land North of Baldways Close, Wingrave**

135. This policy seeks to allocate 1.8 hectares of land north of Baldways Close Wingrave for housing development of approximately 40 dwellings. Development proposals will be supported provided they accord with seven stated principles.

136. Two representations state evidence shows the site is not suitable for approximately 40 dwellings. It is stated the site is not identified in the SHLAA 2013; identified in the Call for Sites as available for 1 to 5 years; and identified as part suitable in the HELAA 2015 for up to approximately 9 dwellings as an extension to the existing cul-de-sac in line with the building line to the west of the site. The assessment considers further that the rest of the site becomes exposed in the landscape and development of the whole site would be out of keeping with the character of the north side of Leighton Road. *“The evidence does not support the identification of this site as a preferred allocation for development of approximately 40 dwellings and hence an objection is raised.”*

137. A further representation states concerns that the number of houses proposed is inconsistent with the character and density of the surrounding area and out of scale; that adverse impact on the residential amenity of surrounding properties will occur in respect of increased noise, light pollution, loss of privacy, and enjoyment of open countryside; and that vehicular traffic on Baldways Close would have a huge impact on residents.

138. The District Council states *“As set out in HELAA, AVDC has concerns to the development of the entire site which would be both out of character and have a harmful impact on the Area of Attractive Landscape. However, a smaller development of around 9 homes*

*closest to the existing housing and not protruding too far into the open countryside may be possible.*” Saved Policy RA 8 of the Local Plan does not preclude development but requires proposals to respect the landscape character.

139. Representations have suggested the number of dwellings that can be accommodated on the site should be decreased. I have earlier in my report concluded that precise capacities of sites can only be determined in the context of detailed development proposals and determination of planning applications. I have recommended the Neighbourhood Plan should be modified so as to include provision for identification of additional or reserve site housing development land.
140. The policy includes the word “defensible” in describing the long-term settlement edge to open countryside. This is imprecise and does not provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended a modification such that boundaries should be distinct. This would require them to be clear and well defined. It is not my intention that the policy should be prescriptive imposing any particular method, solution or style. Boundary treatment will be a matter to be considered when any development proposal is put forward.
141. The Basic Conditions Statement states *“The policy replaces the provisions of saved policy GP2 by requiring 35% of total new homes to be provided as affordable. The saved policy was replaced by the adopted Aylesbury Vale Affordable Housing SPD in 2007 and then by the South East Plan. Although the South East Plan has since been revoked, the District Council has continued to successfully apply its 35% proportion in its development management decisions. Further, a viability assessment of affordable housing policy for the District of 2012 (see the ‘VAP & Community Infrastructure Levy Viability Study’ in the evidence base) concluded that viability would not be an issue arising from affordable housing requirements at this level in this type of location in the District”*. Whilst the requirement of 35% provision as affordable homes on-site, exceeds the 30% maximum rate specified in saved policy GP2 the Neighbourhood Plan policy recognises that divergence from the stated requirements may occur on the basis of a viability calculation. I also note the evidence of local need and the significance assigned to the provision of affordable homes by the community. I am satisfied the affordable housing requirement meets the basic conditions.

142. With respect to the representations, including those made in respect of the site selection method deployed referred to earlier in my report, it is my opinion that, subject to the recommended modifications, there are no issues raised that would prevent it being appropriate for development of the site to occur having regard to national policies and advice in guidance issued by the Secretary of State. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy is in general conformity with the strategic policies contained in the Development Plan, the Adopted Aylesbury Vale District Local Plan Saved Policies.

143. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes, promoting healthy communities, and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the basic conditions.

**Recommended modification 5:  
In Policy 3  
Delete “defensible” and insert “distinct”**

#### **Policy 4: Land South of Leighton Road, Wingrave**

144. This policy seeks to allocate 1.4 hectares of land south of Leighton Road Wingrave for housing development of approximately 30 dwellings. Development proposals will be supported provided they accord with nine stated principles.

145. Historic England supports the approach of the Policy to the protection of the setting of the adjacent heritage assets but recommend the heritage assets should be named in order to avoid any confusion. I have recommended an appropriate modification so that the Policy provides a practical framework for decisions on planning applications in accordance with paragraph 17 of the Framework.

146. A representation requests adjustment of the settlement boundary in relation to land south of Leighton Road so as to increase the size of the site allocated for housing development through this Policy. The representation states a concern that the extent of the allocation is insufficient to deliver the identified quantum of development in combination with the specified criteria. Reference is made to the trees on the frontage and provision of parking provision

for Leighton Road residents as well as the design requirement of Policy 5. It is not within my role to recommend modification of the Plan to make specific additional land allocations for development. The representation also requests a modification to clarify access requirements. The suggested modification would however introduce uncertainty in relation to shared accesses. I am satisfied that the term “no vehicular access” provides sufficient clarity. I do however consider the term “facing towards” is imprecise. In order to achieve a practical framework for decision taking in accordance with paragraph 17 of the Framework I recommend a modification in this respect.

147. Another representation states the site is not identified in the SHLAA 2013; not identified in the Call for Sites 2014; and not identified in the HELAA 2015. *“The proposed extent of the site does not sit comfortably within existing field boundaries but rather seeks to carve-out development into the field and create a new boundary where there is currently no visual containment. The evidence prepared to support the Neighbourhood Plan does not support the identification of this site as a preferred allocation for development and hence an objection is raised.”* A representation states traffic from this site would have to access the A418 by going through the centre of the village, which is described as already a major pinchpoint and traffic hazard.

148. The District Council states *“It is considered developing the entire site for 30 homes as proposed would have a harmful impact on the nearby conservation area and listed building curtilage to the southwest and also have an adverse impact on the character of the village and on the Area of Attractive Landscape. However, a smaller frontage development of around 12 homes to reflect nearby densities may be possible and this will be reflected in the next update/revision to the HELAA report due in the next month.”* Saved Policy RA 8 of the Local Plan does not preclude development but requires proposals to respect the landscape character.

149. Representations have suggested the number of dwellings that can be accommodated on the site should both be increased and decreased. I have earlier in my report concluded that precise capacities of sites can only be determined in the context of detailed development proposals and determination of planning applications. I have recommended the Neighbourhood Plan should be modified so as to include provision for identification of additional or reserve site housing development land.

150. The District Council also states *“There is reference to a car park being provided (in Policy 2 (vii) and Policy 4 (iv)) in two of the allocated*

sites for other residents. CIL Regulation 122 states that a S106 obligation can only be a reason for refusal if the benefit being sought is (a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development. Given that the car parking provision is being made for existing residents rather than the future occupiers of the new housing it is not considered that the car parks are necessary to make the developments acceptable in planning terms unless there is a highway issue that the provision will resolve. No such issue has been identified by the highway authority so the proposed S106 Agreements do not meet the relevant regulations or paragraph 204 of the NPPF. They should therefore be deleted from the submitted plan. I agree with this representation and have recommended an appropriate modification to the Policy.

151. The policy includes the word “defensible” in describing the long-term settlement edge to open countryside. This is imprecise and does not provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. I have recommended a modification such that boundaries should be distinct. This would require them to be clear and well defined. It is not my intention that the policy should be prescriptive imposing any particular method, solution or style. Boundary treatment will be a matter to be considered when any proposal is put forward.
152. The absence of reference to an open space requirement, which may have resulted from a drafting oversight, on a site of 1.4 hectares does not have regard for the ‘promoting healthy communities’ component of the Framework. I recommend a modification in this respect.
153. The Basic Conditions Statement states “*The policy replaces the provisions of saved policy GP2 by requiring 35% of total new homes to be provided as affordable. The saved policy was replaced by the adopted Aylesbury Vale Affordable Housing SPD in 2007 and then by the South East Plan. Although the South East Plan has since been revoked, the District Council has continued to successfully apply its 35% proportion in its development management decisions. Further, a viability assessment of affordable housing policy for the District of 2012 (see the ‘VAP & Community Infrastructure Levy Viability Study’ in the evidence base) concluded that viability would not be an issue arising from affordable housing requirements at this level in this type of location in the District*”. Whilst the requirement of 35% provision as affordable homes on-site, exceeds the 30% maximum rate specified in

saved policy GP2 the Neighbourhood Plan policy recognises that divergence from the stated requirements may occur on the basis of a viability calculation. I also note the evidence of local need and the significance assigned to the provision of affordable homes by the community. I am satisfied the affordable housing requirement meets the basic conditions.

154. With respect to the representations, including those made in respect of the site selection method deployed referred to earlier in my report, it is my opinion that, subject to the recommended modifications, there are no issues raised that would prevent it being appropriate for development of the site to occur having regard to national policies and advice in guidance issued by the Secretary of State. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The policy is in general conformity with the strategic policies contained in the Development Plan, the Adopted Aylesbury Vale District Local Plan Saved Policies.

155. The policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes, promoting healthy communities, and conserving and enhancing the natural environment. Subject to the recommended modification this policy meets the basic conditions.

#### **Recommended modification 6:**

##### **In Policy 4**

- **Delete iv**
- **In v after “buildings” insert “with their principal elevation”**
- **In vii delete “defensible” and insert “distinct”**
- **In ix after “landscape scheme” insert “shall provide public open space within the site”**
- **In ix replace c. with “Have special regard to sustaining and enhancing the significance of proximate heritage assets and their settings including the listed buildings at Nos. 22 - 28 (odd) Leighton Road and the gates, walls and railings to Mount Tabor House; and”**

#### **Policy 5: Design**

156. This policy seeks to establish design principles that will result in development that is appropriate to its setting and to the character of the wider plan area.

157. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. I have given careful consideration to the sentence “*It will seek to avoid closing in development*”. In isolation the sentence is imprecise and does not offer a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency as required by paragraph 17 of the Framework. However, when read in the context of the previous sentence I consider the meaning is sufficiently clear to guide decision taking.
158. The policy is in general conformity with the strategic policies contained in the Development Plan, the Adopted Aylesbury Vale District Local Plan Saved Policies.
159. The policy has regard to the components of the Framework concerned with requiring good design. This policy meets the basic conditions

#### **Policy 6: Local Employment**

160. This policy seeks to establish conditional support for proposals that will lead to additional employment in four specified locations, and resist proposals that will result in the loss of an existing employment use unless continued use is no longer viable. The policy also seeks to establish support for proposals that provide broadband infrastructure and requires new housing to provide for access to the superfast broadband network when it becomes available.
161. The policy includes the imprecise term “*high quality commercial buildings*”. I recommend a modification of this term to make reference to design so that the policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. A further modification is necessary as there is no acceptable mechanism to require new housing development to contribute to improvements in the broadband service for existing residents and businesses. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community.
162. The policy is in general conformity with the strategic policies contained in the Development Plan, the Adopted Aylesbury Vale District Local Plan Saved Policies.

163. The policy has regard to the components of the Framework concerned with building a strong, competitive economy; supporting a prosperous rural economy; and supporting high quality communications infrastructure. Subject to the recommended modification this policy meets the basic conditions.

**Recommended modification 7:**

**In Policy 6**

- **After “high quality” insert “design”**
- **Delete “and if possible, contribute to improvements in the service for existing residents and businesses”**

**Policy 7: Wingrave Community Facilities**

164. This policy seeks to establish conditional support for proposals that improve the viability of an established community use of eleven named buildings through extension or partial redevelopment. The policy also seeks to resist proposals that will result in the loss of any of the named community facilities.

165. A representation claims there is inconsistency between the logic of Policy 7 and 8 stating, in the probably unlikely event the Sports Pavilion is re-provided elsewhere, then the open space around it should be released as greenspace such that the Trustees can return the land currently leased to the Parish Council to agriculture or other alternative use. I am satisfied the terms of policies 7 and 8 are mutually compatible in that a sports ground can meet the requirements for designation as Local Green Space in the absence of a sports pavilion and re-provision of a sports pavilion away from the recreation ground is likely to fail the Policy requirement for a suitable site.

166. The term “*re-provided*” is imprecise, and could result in uncertainty when faced with a proposal to provide a facility of much reduced amenity. I therefore recommend a modification so that the policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. The policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community.

167. The reference to designated heritage assets does not adequately reflect national policy which is set out in particular in

paragraphs 133 and 134 of the Framework that focus on considerations to apply when faced with a proposal that will harm the significance of designated heritage assets. I recommend a modification to delete the relevant sentence of the Policy.

168. The policy is in general conformity with the strategic policies contained in the Development Plan, the Adopted Aylesbury Vale District Local Plan Saved Policies.

169. The policy has regard to the components of the Framework concerned with. Subject to the recommended modification this policy meets the basic conditions.

**Recommended modification 8:**

**In Policy 7**

- **Delete the final sentence of the first paragraph**
- **After “re-provided” insert “to no less a standard of amenity”**

**Policy 8: Local Green Spaces**

170. This policy seeks to designate six Local Green Spaces where proposals for development will only be supported if the open character of the land is preserved, unless very special circumstances can be demonstrated.

171. I have earlier in my report referred to a representation that claims there is inconsistency between the logic of Policy 7 and 8, stating in the probably unlikely event the Sports Pavilion is re-provided elsewhere, then the open space around it should be released as greenspace such that the Trustees can return the land currently leased to the Parish Council to agriculture or other alternative use. I am satisfied the terms of policies 7 and 8 are mutually compatible in that a sports ground can meet the requirements for designation as Local Green Space in the absence of a sports pavilion.

172. The District Council states *“Attention is drawn to page 29 of the submitted Consultation Statement and that the site owner for ‘The Knolls, Church Street’ had not responded to the consultation (at the Pre-submissions stage) on designating the site as a Local Green Space in the neighbourhood plan. Despite this, the site has been carried forward to be designated in the submitted version of the plan”*. The National Planning Practice Guidance states *“Local Green Space*

*does not need to be in public ownership. However, the local planning authority (in the case of local plan making) or the qualifying body (in the case of neighbourhood plan making) 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.”<sup>48</sup> I am satisfied the landowners have had opportunity to make representations.*

173. The Framework 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.”*

174. I find 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 Guidance states *“Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.”* The intended designations are consistent with 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. My examination of Policy 1 has included consideration whether the Submission Neighbourhood Plan makes provision for sufficient new homes and I have concluded a modification of the Plan is necessary in this respect. The Local Green Space designations will only compliment investment in sufficient homes if the modification that I have recommended in respect of Policy 1 is accepted. In the absence of that modification I recommend the Local Green Space designations should not be pursued.

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<sup>48</sup> National Planning Practice Guidance Paragraph:019 Reference ID: 37-019-20140306

175. The Framework 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.*

I find the intended Local Green Space designation relates to green space that is in reasonably close proximity to the community it serves; and the green area is local in character and is not an extensive tract of land.

176. The District Council states in respect to LGS5 *“In AVDC’s view the justification has not been provided in the report to provide the demonstrably special and local significance of any significant duration. To say the space is used very occasionally by the community is not providing making it ‘demonstrably special’ as required by paragraph 77 of the NPPF. Further, this site is one of few sites in Wingrave considered suitable by the District Council within its HELAA. The NPPF states that identifying land as Local Green Space should be consistent with the local planning of sustainable development. With the strong probability that the overall housing need for Aylesbury Vale will increase (from the levels in the VALP Issues and Options consultation) it is considered that designating this site as LGS will constrain the potential for future housing need to be met and so is not consistent with the local planning of sustainable development.”*

177. The Neighbourhood Plan states *“In each case, the green spaces are an integral part of Wingrave village and together with their contribution to the encouragement of bio-diversity are therefore regarded as special to the local community.”* The Local Green Spaces – Wingrave Village document sets out information that confirms why each of the areas proposed for designation as Local Green Space are of particular significance to and valued by the local community. With respect to area 5 The Knolls Church Street it is stated *“The Knolls is a south west facing steeply sloping 1.4-hectare field on the northwest side of Church Street just past Coblers Wick. The field is used to graze a number of ponies but it has considerable recreational and amenity value to the village. It is used for dog walking and is part of a village jogging route. In summer it is used as a picnic site by both residents*

*and non-residents. For over thirty years it has been the location of the village bonfire and firework display to celebrate November 5th. In winter it has been used for more than living memory as the village tobogganing and sledging field as it has the most appropriate slope for such activities in the village. The field has spectacular far reaching panoramic views over the Vale of Aylesbury to the Chilterns and on towards Chinnor”.*

178. The submission Neighbourhood Plan and supporting documentation offer sufficient evidence for me to conclude the areas proposed for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance. Subject to the recommended modification of Policy 1 this Policy meets the basic conditions.

## Summary and Referendum

179. I have recommended the following modifications to the Submission Version Plan:

### **Recommended modification 1:**

**The Infrastructure Projects section of the submission plan should be transferred to a non-statutory annex to the Neighbourhood Plan**

### **Recommended modification 2:**

**The basis of decision making on planning applications should be clarified through inclusion of an introductory statement and policies should state “will be supported” or “will not be supported” instead of “will be permitted” or “will not be permitted”**

### **Recommended modification 3:**

#### **In Policy 1**

- **After “Policies Map” delete the remainder of the sentence and insert “within which proposals for new housing development will be supported.”**
- **The Policy should include provision for identification of additional or reserve site housing development land that could be developed should the sites allocated in Policies 2,3 and 4 not deliver a sufficient number of dwellings to meet updated assessment of housing need**

- The Wingrave Settlement Boundary shown on the Policies Map should be continuous
- Delete “permitted” and insert “supported”
- In the third paragraph before “Development proposals” insert “Apart from infill housing in Rowsham”
- In the third paragraph delete “or recreation” and insert “, recreation or tourism”
- Delete the final sentence and insert “New isolated homes in the countryside will not be supported except in the special circumstances described in paragraph 55 of the Framework”

**Recommended modification 4:**

**In Policy 2**

- Delete principle vii
- Replace x. a. with “Sustains and enhances the significance of the adjoining building at Nup End Farm and its setting providing a buffer between buildings and the asset;”
- Replace x. c. with “Retains trees on the site boundaries; and”

**Recommended modification 5:**

**In Policy 3**

**Delete “defensible” and insert “distinct”**

**Recommended modification 6:**

**In Policy 4**

- Delete iv
- In v after “buildings” insert “with their principal elevation”
- In vii delete “defensible” and insert “distinct”
- In ix after “landscape scheme” insert “shall provide public open space within the site”
- In ix replace c. with “Have special regard to sustaining and enhancing the significance of proximate heritage assets and their settings including the listed buildings at Nos. 22 - 28 (odd) Leighton Road and the gates, walls and railings to Mount Tabor House; and”

**Recommended modification 7:**

**In Policy 6**

- After “high quality” insert “design”
- Delete “and if possible, contribute to improvements in the service for existing residents and businesses”

**Recommended modification 8:  
In Policy 7**

- **Delete the final sentence of the first paragraph**
- **After “re-provided” insert “to no less a standard of amenity”**

180. I also make the following recommendation in the Annex below.

**Recommended modification 9:  
Identified errors that are typographical in nature or arising from updates should be corrected. Modification of general text will be necessary to achieve consistency with the modified policies**

181. I am satisfied that the Neighbourhood Plan<sup>49</sup>:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and
- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the basic conditions:
  - 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 likely to have a significant effect on a European site or a European offshore

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<sup>49</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

marine site, either alone or in combination with other plans or projects.<sup>50</sup>

**I recommend to Aylesbury Vale District Council that the Wingrave with Rowsham Neighbourhood Development Plan for the plan period up to 2033 should, subject to the modifications I have put forward, be submitted to referendum.**

182. 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.<sup>51</sup> I have seen nothing to suggest the referendum area should be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by the District Council as a Neighbourhood Area on 14 December 2012.**

#### Annex: Minor Corrections to the Neighbourhood Plan

I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>52</sup> The Neighbourhood Plan includes a number of errors that are typographical in nature or arising from updates. I recommend these are corrected as follows:

Paragraph 1.21 delete “Environmental” and insert “Environment”

Paragraph 1.4 and paragraph 1.23 should more accurately reflect the Basic Conditions

Paragraph 1.24 line 6 after “WRNP” delete “is”

In Policy 3 vii delete the second “that”

The District Council states “There are references to ‘CIL Agreements’ in the submitted plan – there are no such thing as ‘CIL Agreements’ in the regulations for CIL. Therefore, the references to CIL Agreements should be deleted from the submitted plan leaving only references to S106 Agreements which is valid.”

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<sup>50</sup> 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

<sup>51</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>52</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

A number of consequential modifications to the general text of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

**Recommended modification 9:  
Identified errors that are typographical in nature or arising from updates should be corrected. Modification of general text will be necessary to achieve consistency with the modified policies**

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20 June 2016  
REPORT ENDS