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Representation # _____	

SHILLINGSTONE NEIGHBOURHOOD PLAN

Regulation 16 Consultation 20th May to 1st July 2016

Response Form

The proposed Shillingstone Neighbourhood Plan has been submitted to North Dorset District Council for examination. The neighbourhood plan and all supporting documentation can be viewed on the District Council's website at: <https://www.dorsetforyou.com/article/422589/North-Dorset-Neighbourhood-Plans---Submitted-Plans>

Please return completed forms to:

Email: planningpolicy@north-dorset.gov.uk

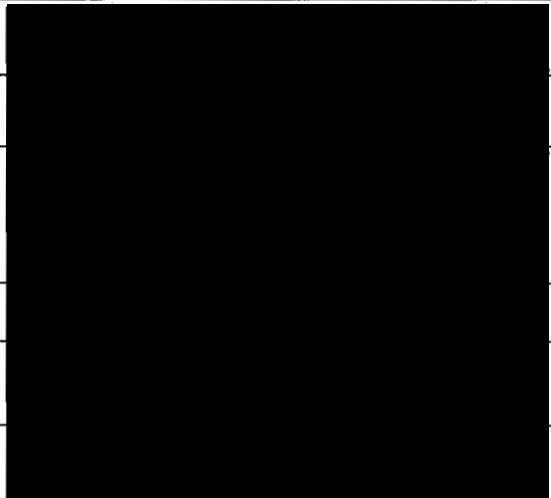
Post: Planning Policy, North Dorset District Council, Nordon, Salisbury Road, Blandford Forum, Dorset DT11 7LL

Deadline: Friday 1st July 2016. Representations received after this date will not be accepted.

Part A – Personal Details

This part of the form must be completed by all people making representations as **anonymous comments cannot be accepted**. By submitting this response form you consent to your information being disclosed to third parties for this purpose, personal details will not be visible on our website, although they will be shown on paper copies that will be sent to the independent examiner and available for inspection.

*If an agent is appointed, please complete only the Title, Name and Organisation boxes to the personal details but complete the full contact details of the agent. All correspondence will be sent to the agent.

	Personal Details (if applicable)*	Agent's Details (if applicable)*
Title	Mr	Mr
First Name	Ian	Nigel
Last Name	Moore	McGurk
Job Title (where relevant)		
Organisation (where relevant)		
Address		
Postcode		
Tel. No.		
Email Address		

Part B – Representation

1. To which document does the comment relate? Please tick one box only.

Tick	Neighbourhood Plan Submission Draft
	Neighbourhood Area Map (included within the neighbourhood plan document)
	Consultation Summary
	Basic Conditions Statement
	Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report
	Strategic Environmental Assessment Statement of Reasons and Requirement for a Habitats Regulations Assessment
	Other Please specify:

2. To which part of the document does the comment relate? Please identify the text that you are commenting on, where appropriate. For example, if you are commenting on the landscape paragraph on page 4 of the neighbourhood plan document, either write 'Our Environment/Landscape' against the Section box or '4/Landscape' against the Page box.

	Location of Text
Whole document	
Section	
Policy	Policy 1. Also, Policy 5 and Policies 7-13
Page	
Appendix	

3. Do you wish to? Please tick one box only.

	Support
	Support with conditions
Tick	Object
	Make an observation
	Other

4. Please use the box below to give reasons for your support/objection or make your observation.

Policy 1 does not meet the basic conditions.

Individually and together, Policies 1, 5 and 7-13 do not meet the basic conditions.

It is not possible to fit the representation onto this form. The representation is therefore provided in the attached Report, file "Shillingstone Erimax" and entitled "A Representation to North Dorset District Council Regulation 16 Consultation On Behalf of the Owner of Church Field (Ref: Policy 1 LGS:HRC)."

[Empty box for content]

[Empty box for content]

Continue overleaf if necessary

5. Please give details of any suggested modifications in the box below.

See attached, Report, as above.

Continue overleaf if necessary

6. Do you wish to be notified of the District Council's decision to make or refuse to make the neighbourhood plan? *Please tick one box only.*

Tick	Yes
	No

Signature:  _____

Date: 1st July 2016

If submitting the form electronically, no signature is required.

Please use this box to continue your responses to Questions 4 & 5 if necessary

SHILLINGSTONE NEIGHBOURHOOD PLAN

A Representation to North Dorset District Council
Regulation 16 Consultation
On Behalf of the Owner of Church Field (Ref: Policy 1 LGS-HRC)

Nigel McGurk BSc(Hons) MCD MBA MRTPI

June 2016

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- 1. Introduction**
- 2. Policy 1 – “*Local green spaces*”**
- 3. Policy 5 - “*Land within the settlement boundary*”**
- 4. Policies 7 – 13 inclusive – “*Possible development sites*”**

1. Introduction

To proceed to Referendum, a neighbourhood plan must meet the basic conditions established by legislation. These were *set out in law*¹ following the Localism Act 2011 and require that:

- having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood 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;
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations.

This Representation to North Dorset District Council considers the Shillingstone Neighbourhood Plan (the Neighbourhood Plan) against the basic conditions. It is aimed at ensuring that the Neighbourhood Plan can progress to Referendum. Consequently, it identifies those Policies within which there is significant conflict with the basic conditions, such that, without modification, the Neighbourhood Plan could not progress to Referendum and subsequently be made and form part of the Development Plan.

Taken individually, or together, the conflicts identified are not intended to constitute a negative criticism of the Neighbourhood Plan as a whole, or the significant community effort made to reach this stage. It is clear, from the information presented, that the Neighbourhood Plan is the result of a major, sustained community effort. I also note that neighbourhood plan-makers, by their very nature, tend not to be planning or development professionals and cannot therefore, be expected to be "experts" on all aspects of planning legislation, policy and guidance.

However, it is crucial that, in order to progress, a Neighbourhood Plan meets the basic conditions. In considering the Neighbourhood Plan against the basic conditions, this Report identifies issues and makes suggestions aimed at helping it to proceed to Referendum in as similar form as possible to the submitted version.

¹ Paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990.

2. Policy 1 – “Local green spaces”

2 i) Introduction

Local Green Space is a relatively new policy designation, introduced by the National Planning Policy Framework (the Framework) in 2012. It is one of the most powerful land use planning tools available to neighbourhood planners – its proper use enables neighbourhood plans to afford the highest level of protection to identified sites.

Given this, it is essential that Local Green Spaces are appropriately designated. There are many examples of proposed Local Green Spaces being removed from neighbourhood plans at the examination stage, due to improper designation. Were an inappropriately designated Local Green Space not to be identified and a neighbourhood plan to progress to Referendum, a subsequent legal challenge would not only be successful but would also be likely to be supported by a successful challenge for costs.

As currently presented, the wording of Policy 1 and the proposed designation of LGS-HRC as Local Green Space do not have regard to national policy and result in Policy 1 failing to meet the basic conditions. However, there is scope, through the modifications suggested below, to address this, enabling the Neighbourhood Plan to meet the basic conditions.

2 ii) National Planning Policy and Advice

Section 39(2) of the Planning and Compulsory Purchase Act 2004 requires a local authority exercising their plan making functions to do so with the objective of contributing to the achievement of sustainable development.

The National Planning Policy Framework (the Framework) establishes that:

"The purpose of the planning system is to contribute to the achievement of sustainable development" (Paragraph 6, the Framework).

As identified above, a neighbourhood plan must contribute to the achievement of sustainable development.

Paragraphs 76-78 of the Framework introduce Local Green Space, enabling local communities to identify for special protection green areas of particular importance to them.

In so doing, Paragraphs 76-78 establish tests for the designation of Local Green Space. For a site to be designated, each of these tests needs to be met. They comprise:

- Identifying land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.
- Local Green Space should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.
- The green space should be in reasonably close proximity to the community it serves.
- The green space should be demonstrably special to a local community and hold 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.
- The green area concerned should be local in character and not be an extensive tract of land.
- Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.

In addition to the above tests, Paragraph 76 of the Framework clearly establishes the protection afforded to Local Green Space:

"...local communities will be able to rule out new development other than in very special circumstances."

This provides the basis of the policy wording for Local Green Space.

With regards the first bullet point, above, Planning Practice Guidance² states that:

“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.”

Consequently, if designating Local Green Space, there must be certainty that sufficient development land is allocated elsewhere – otherwise the designation would place undue constraints on sustainable development.

- ***As set out, there is conflict between this test and the Policies of the Neighbourhood Plan. There is also conflict between the tests identified above and the proposed designation of LGS-HRC as Local Green Space. More fundamentally, the evidence underpinning Policy 1 of the Neighbourhood Plan does not have regard to national policy and does not meet the basic conditions. Each of these factors is considered in more detail below.***

² Ref: Planning Practice Guidance Paragraph 007 Reference ID 37-007-20140306

2 iii) Local Planning Policy and Supporting Evidence

The relevant adopted strategic planning policies relating to Shillingstone are contained in the North Dorset Local Plan. This was adopted in January 2016. It does not designate any Local Green Spaces.

The North Dorset District-wide Local Plan to 2011 (adopted 2003) included an Important Open or Wooded Areas (IOWAs) policy. This identified for protection from development, open or wooded land that contributes significantly to the amenity and character of a settlement. The North Dorset Local Plan (2016) saves the IOWA policy (Policy 1.9). It allows for the future review of IOWAs through Part II of the Local Plan or through Neighbourhood Plans.

Given its importance, as identified above, it is essential that the designation of land as Local Green Space is supported by a robust evidence base. Local Green Space is a highly restrictive designation – it prevents the use of land for development except in very special circumstances. Inappropriately designated Local Green Space could prevent sustainable development from coming forward, in direct conflict with the purpose of the planning system.

In terms of evidence, it is not sufficient, for example, to simply wander around a Neighbourhood Area, listing land that appears to be nice and then list reasons setting out why it is nice, draw a general line around it and designate it as Local Green Space. In this regard, national policy is clear:

“The Local Green Space designation will not be appropriate for most green areas or open space” (Paragraph 77).

The tests set out in the Framework are there for a purpose. They need to be fully complied with. The tests provide the basis for robust analysis and it is incumbent upon plan-makers to follow them in an open and transparent manner – and provide the opportunity, through consultation, for the community and any interested parties to comment on the process.

It is therefore important to understand how the Local Green Spaces designated in the Neighbourhood Plan were arrived at and whether the process was appropriately robust.

During the plan-making process, Shillingstone Parish Council reported³ that, further to Neighbourhood Questionnaire, *“it was apparent the overwhelming community consensus looked to preserve the...IOWAs, provide enough housing to meet local needs and keep the existing development boundary.”*

³ Ref: Minutes Shillingstone Parish Council Meeting 4 December 2014

This signifies the tremendous importance, to the local community, of safeguarding land previously identified through the IOWA designation – taking into account the need for sustainable development. As set out in the Framework, neighbourhood plans provide local communities with the opportunity to plan for themselves. In the Parish Council's own words, the preservation of the IOWAs has the community's "overwhelming" support.

The community did not call for the significant expansion of any IOWA – indeed, the Parish Council's own reference above refers to the need to provide for sustainable development. This initial approach – emerging from overwhelming community consensus – of protecting demonstrably special green areas consistent with local planning for sustainable development, ties in with one of the tests for the designation of Local Green Space, identified above.

This is a crucial point.

The minutes of the Parish Council Meeting of 3 November 2014 refer explicitly to the "desire to retain the green spaces of the IOWAs" (Paragraph 6). This desire emerged not only from "overwhelming" community support, but also, apparently, from local knowledge that IOWAs "will disappear after the adoption of the new Local Plan."⁴

This is simply not the case and demonstrates a lack of relevant necessary understanding. It places a further question mark over the robustness of the supporting evidence. As identified earlier in this Representation, the IOWAs policy has been saved. It has not disappeared. Local planning policy allows for the future review of IOWAs through the emerging Local Plan Part II, or through Neighbourhood Plans. Given the evidence submitted in this Representation, it is suggested that, in the case of Shillingstone, it would be a more robust process to review IOWAs through the emerging Local Plan Part II process.

The Parish Council went on to state that "In the post-IOWA regime some might be worth designating as a "local green space" as covered by the NPPF."⁵

It is clear that the starting point for the designation of Local Green Spaces in Shillingstone was the aim of protecting IOWAs. For clarity, the starting point was not "A review of IOWAs."

Whilst sparse evidence has been presented to demonstrate precisely how Local Green Spaces were identified and considered, the "Notes of a meeting held on Wednesday 7 January 2015 to review the Green spaces"⁶ state that:

"A village walkabout followed looking at specific sites which could be designated."

⁴ Ref: Parish Council Minutes 4 August 2014

⁵ Ref: Parish Council Minutes 17 March 2014

⁶ Ref: Parish Council 9 January 2015

This effectively comprises the identification process for the designation of Local Green Spaces. Other than the consideration of IOWAs, to “rule them in or out” as Local Green Spaces, there is no evidence of a wider site analysis exercise to consider and compare areas of land not already IOWAs, or to consider various options.

This is extraordinary.

Essentially, the main basis for the identification of Local Green Spaces was that they already comprised IOWAs, or that they looked nice on a “walkabout.” However, the Neighbourhood Plan does not designate all of the IOWAs as Local Green Spaces. Thus, despite the audit trail being clear in establishing an “*overwhelming community consensus*” for the protection of IOWAs, the Neighbourhood Plan designates some IOWAs but not others and also includes random areas of land that did not form IOWAs.

Furthermore, the Neighbourhood Plan then goes on to propose that existing IOWA designations should not only be removed, but that the IOWAs themselves should be considered to comprise “*possible development sites*.”

The evidence base is not robust.

In addition to the above, it is noted that the results of consultation⁷ show that, further to a questionnaire, around 40 respondents supported each Local Green Space designation and around 10 people objected to each designation. There is clearly no overwhelming consensus in this regard. This is surprising, as generally, if places are “*demonstrably special to a community*,” it would be expected that up to 100% of people (occasionally with the exception of the landowner) would strongly support their protection.

Furthermore, it is relevant to note that, despite very significant levels of community objections, the Neighbourhood Plan goes on to recommend that three IOWAs become “*possible development sites*.” This is despite all three of the IOWAs being shown to be of a higher environmental quality and have greater local support (40% of respondents were against their being proposed as development sites) for their protection than, for example, the proposed designation LGS-HRC as a Local Green Space. These IOWAs should not comprise “*possible development sites*” but should be protected for their identified environmental value, in general conformity with the strategic policies of the adopted development plan.

Consequently, the Neighbourhood Plan is promoting contentious development on IOWAs, whilst seeking to designate other, inappropriate tracts of land as Local Green Space (see below). This is indicative of both a confused approach by the plan-makers and a failure to afford relevant weight to the views of the community.

⁷ Ref: Report on Informal Consultation on Draft Plan, June 2015

Thus, the Neighbourhood Plan has failed to reflect the overwhelming consensus for the protection of TOWAs. The Framework is clear:

“Neighbourhood Planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”
(Paragraph 183, the Framework).

The community provided Shillingstone Parish Council with an “overwhelming consensus” with regards the protection of IOWAs whereas, in the first questionnaire distributed during public consultation, 57 respondents did not favour the approach to Local Green Space. In the case of Policy 1, “Local green spaces,” the Neighbourhood Plan has failed to reflect the shared vision for Shillingstone. It does not meet the basic conditions.

Furthermore, one of the tests identified above, states that:

“The green space should be demonstrably special to a local community and hold 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.”

The Neighbourhood Plan includes very brief descriptions of “Importance” relating to each of the designated areas of Local Green Space. Nowhere does national policy state that Local Green Spaces should be “Important.”

For clarity, “Importance” is not a planning policy test for Local Green Spaces.

Whilst, it might be arguable that “Importance” could be considered to be comparable to “hold a particular local significance,” it is evident that the plan-makers have failed to apply the Local Green Space tests appropriately. The Neighbourhood Plan has failed to demonstrate that each Local Green Space is “demonstrably special.”

To do this or not is not a choice, it is an absolute requirement. If a Local Green Space does not pass this test, it cannot be designated.

The “Notes of a meeting” (7 January 2015) referred to earlier state that “To prove it is “demonstrably special” at least one of the following criteria must be met...” and go on to list the examples of local significance.

This is a fundamental misapplication and misunderstanding of the tests set out in the Framework. It goes to the heart of the flawed evidence base underpinning Policy 1. The Framework is explicit:

“The green space should be demonstrably special to a local community and hold a particular local significance, for example...” (my emphasis)

Being demonstrably special and holding a particular local significance are not the same thing. They comprise different things. It is not sufficient to meet some statutory planning tests and ignore others. All of the tests need to be met.

There is no evidence to demonstrate that the areas of Local Green Space are "*demonstrably special*." Rather, the plan-makers failed even to apply the test. Furthermore, in failing to apply the test, there is clear evidence that they misapplied and misunderstood what the relevant tests were. This is not to criticise the plan-makers. As set out at the start of this Representation, neighbourhood plan makers, by their very nature, are not planning professionals and cannot be expected to understand all aspects of planning policy and legislation.

- ***However, the areas of Local Green Space designated in Policy 1 have not been subject to the necessary statutory tests. Policy 1 does not have regard to national policy. It does not meet the basic conditions.***
- ***For the Neighbourhood Plan to progress to Referendum. Policy 1 must be deleted.***

2 iii) Policy 1 – Wording

As set out above, the Framework provides the basis for Local Green Space policy wording. Paragraph 76 states:

“...local communities will be able to rule out new development other than in very special circumstances.”

The Framework goes on to note that local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.

Policy 1 does not have regard to national policy and does not meet the basic conditions. It states:

“Local green spaces, as shown on the Policies Map, are to be protected from development that would detract from their undeveloped character.”

This is not a Local Green Space policy. It does not have regard to national policy. It fails to reflect and is entirely different from the requirements set out within the Framework. Nowhere does national policy state that Local Green Space has the purpose of protecting land from development that would detract from undeveloped character. Such an approach is in direct conflict with the purpose of Local Green Space.

Local Green Space policy allows for development in very special circumstances. Local policy for managing development should be consistent with policy for Green Belts. Green Belt policy does not protect land from development that detracts from undeveloped character. Green Belt policy allows for development that is not inappropriate for the purposes of Green Belt. In so doing, attributes such as openness and local character might be afforded significant weight, but this does not come close to being the same thing as protecting land from development that would detract from undeveloped character.

It is relevant to note that the Neighbourhood Plan itself seeks to include the designation of land that has itself been developed. Whilst in this particular case, this is (another) flaw in the Neighbourhood Plan’s approach to Local Green Space, the result is that the wording of the Policy is in direct conflict with the designations themselves. This conflict leads the Policy to fail to meet the basic conditions in this regard alone.

It is also worth noting that Planning Practice Guidance, in referring specifically to the types of green area that can be identified as Local Green Space, states:

...green areas could include land where sports pavilions, boating lakes or structures such as war memorials are located, allotments, or urban spaces that provide a tranquil oasis.”⁸

- **Simply, the wording of Policy 1 does not have regard to national policy. It does not meet the basic conditions.**
- **In this regard, unfortunately, the very clear purpose of Policy 1 – to prevent development that detracts from undeveloped character – is entirely different to the purpose of Local Green Space. There is fundamental conflict with national policy. Therefore, if the Independent Examiner is to recommend the Neighbourhood Plan progresses to Referendum, Policy 1 needs to be deleted.**
- **This is because, if it were to be recommended to be retained, the Policy would need to be completely deleted and completely re-written, with an entirely different purpose to that of the Policy submitted for examination. Effectively, the Examiner, rather than the community, would be the author of his or her own Policy for the Neighbourhood Plan. This would leave the Neighbourhood Plan open to a legal challenge in the future.**

⁸ Ref: Planning Practice Guidance Paragraph 013. Reference ID: 37-013-20140306

2 iv) Policy 1, Proposed Designation of LGS-HRC

Notwithstanding all of the above, it is relevant to point out that the proposed designation of LGS-HRC as Local Green Space does not meet the basic conditions.

It is important to note that there is a clear distinction between the Church IOWA – which is a designated site, subject to saved North Dorset Local Plan Policy 1.9 – and the proposed designation of LGS-HRC, which comprises a somewhat disparate and extensive tranche of land more than five times the size of the existing Church IOWA.

As above, it is incumbent upon plan makers to provide evidence that a Local Green Space is *“demonstrably special to a local community and holds a particular local significance.”*

To support the proposed designation of LGS-HRC, the Neighbourhood Plan, under “Importance” states:

“Setting of church and highpoint of village.”

These are simply two points of fact. The information does not amount to the same thing as holding particular local significance. More importantly, nowhere does the Neighbourhood Plan, or the supporting evidence, demonstrate that the proposed designation of LGS-HRC is *“demonstrably special to a local community.”*

In the background evidence there are general references to *“highest point of village... “extensive views...setting (of the church)...footpaths...informal recreation.”* However, these points do not relate to the whole of the extensive tranche of land designated as a Local Green Space, but to some individual parts of it.

Nowhere, in the Neighbourhood Plan, or the supporting evidence, is there a clear analysis of the whole of the extensive tranche of land identified as LGS-HRC and proposed to be designated as Local Green Space. As presented, the proposed designation is based on general comments that, quite simply, do not apply to all of the land.

- **The proposed designation of LGS-HRC as Local Green Space does not meet the basic conditions.**

Further to the above, it is important to consider the proposed LGS-HRC designation in further detail, as this highlights the absence of appropriate evidence in support of Policy 1.

The Shillingstone Proposals Map forming part of the North Dorset District-Wide Local Plan (2003) identifies the IOWAs - referred to earlier and which formed the basis of the designations in Policy 1. The setting of the church at a highpoint of the village is clearly recognised, as a specific IOWA, and it incorporates the church, churchyard and sports fields between the church and buildings/Blandford Road to the front.

Taking the above into account, the existing Church IOWA provides a logical basis for a designation within a Local Green Space policy. There should be scope for plan-makers to provide evidence that the attributes of the Church IOWA are demonstrably special to the local community and hold a particular local significance, due for example, to the tranquillity of the churchyard, the history associated with the church, the location of the church at a high point in the village and the amenity value of the sports field.

For clarity, the designation of the Church IOWA as a Local Green Space would meet the basic conditions (subject to an appropriately worded policy proposed by plan-makers, to meet the aims of the Neighbourhood Plan and that has emerged from an appropriate process).

However, the proposed designation of LGS-HRC in Policy 1 is entirely different to the Church IOWA. Firstly, it is more than *five times* the size of the Church IOWA.

In order to meet the statutory tests, it is essential that Local Green Space does not comprise "*an extensive tract of land.*" At more than five times the size of the Church IOWA the proposed extended designation in Policy 1 comprises an extensive tract of land.

Relative to Shillingstone, which is, itself, a relatively small settlement, the proposed designation of LGS-HRC is an extensive tract of land. It covers 4.8 hectares (12 acres). It would be around the size of eight full size football pitches and is twice the size of the area covered by all of the seven "*possible development sites*" referred to later in the Neighbourhood Plan. It is an extensive tract of land.

Relative to the Neighbourhood Area, the proposed designation of LGS-HRC comprises an extensive tract of land. No substantive evidence has been provided to the contrary.

- **The proposed designation of LGS-HRC is an extensive tract of land. As such, it fails to have regard to national policy and does not meet the basic conditions.**

Secondly, the proposed designation, of LGS-HRC, due in part to its size, includes a wide variety of greatly varying character. Much of the extensive tract of land varies considerably in scale, form and appearance to that of the Church IOWA alone. The whole of the LGS-HRC and its varying character and form, has not been analysed in detail and the whole of the extensive tract of land has not been shown to be demonstrably special nor hold a particular local significance.

There is an area to the south/south east of the churchyard that adjoins residential development and has a, suburban, backland/garden-land character. This area shares little if any of the characteristics of the Church IOWA, or land to the north/north west of the church. The presence of housing, trees and planting, and the private nature of the land means that it makes little, if any contribution to the setting of the church.

- **There is no evidence showing that the land to the south and south east of the churchyard is demonstrably special or holds a particular local significance. The proposed designation of LGS-HRC does not have regard to national policy and does not meet the basic conditions.**

There is an area of land to the east and north east of the churchyard that falls away from the village. This simply comprises open countryside. It is not an amenity area, but rather, a large tranche of open land. Much of the open countryside that surrounds Shillingstone provides a setting to the church tower – which can be seen from miles away, as is usually the case with church towers and steeples – but this does not mean that it is appropriate to designate all open countryside as Local Green Space.

- **As established above, the Framework is explicit in stating that the Local Green Space designation “will not be appropriate for most green areas and local space.” It is not appropriate to designate open countryside as Local Green Space simply because it is green and spacious.**
- **There is further direct conflict with national policy in this regard, given that the Neighbourhood Plan appears to be seeking to designate “most green areas and local space” as Local Green Space. Relative to the size of the village itself, the Neighbourhood Plan proposes vast swathes of land as Local Green Space. Taking Paragraphs 76-78 into account, this is clearly not the purpose of the policy designation.**
- **There is no evidence showing that the land to the east or north east of the churchyard is demonstrably special or holds a particular local significance. The proposed designation of LGS-HRC does not have regard to national policy and does not meet the basic conditions.**

An extensive tranche of land to the north and north west of the churchyard, extending as far as the edge of industrial land to the north and houses to the north west also forms part of the proposed designation of LGS-HRC. This part of the designation also includes the old primary school buildings and it is unclear why the Neighbourhood Plan would seek to place a barrier upon sustainable development relating to the use of the old primary school.

Such an approach fails to have regard to the Framework, which seeks to:

“...promote the retention and development of local services and community facilities in villages, such as...meeting places...cultural buildings...and places of worship” (Paragraph 28).

The old school buildings aside, and also excluding the sweeping area of countryside which extends from the churchyard in a north to north easterly direction, falling away to more countryside beyond, part of the large area of land extending away from the churchyard in a north to north westerly direction does appear to have significant merits as an extension area to the Church IOWA, to form a future area of Local Green Space.

There are a number of footpaths in this area between housing and employment land to the north of Shillingstone and the North Dorset Railway, church, old school and village centre. Thus, there is clearly some scope, further to the production of appropriate evidence, to propose a Local Green Space incorporating this land together with the existing Church IOWA.

The owners of the land to the north and north west of the church would support the designation of this area, together with the Church IOWA as Local Green Space. Whilst it would still comprise a relatively large area of land, it would be less than half of the size of the extensive tranche of land currently proposed in Policy 1 and would have potentially relevant Local Green Space credentials, including footpath land with significant amenity value.

However, currently, there is no specific evidence to demonstrate that this part of the proposed designation of LGS-HRC meets the relevant statutory tests. There is clearly considerable scope for the local community, in this case plan-makers and landowners, to work together in the future to promote the creation of an appropriate new Local Green Space to include land at Church Field. This could be through a new Neighbourhood Plan, or through a revised version of the submission Neighbourhood Plan. Perhaps most appropriately and efficiently, it could also be achieved through the emerging Local Plan Part II, alongside review of IOWAs.

In the above regard, it is relevant to note that Planning Practice Guidance⁹ requires plan-makers to:

“...contact landowners at an early stage about proposals to designate any part of their land as Local Green Space.”

- **In the case of the Church Field element of the proposed designation of LGS-HRC, this did not happen and in this respect, having regard to national policy and advice, the Neighbourhood Plan does not meet the basic conditions.**

⁹ Ref: Planning Practice Guidance Paragraph 109. Reference ID: 37-019-20140306

In respect of Church Field, which comprises the majority of the extensive tract of land that comprises proposed designation LGS-HRC, had landowners been engaged at an early stage, there would clearly have been scope to develop Local Green Space policy in an appropriate manner, taking into account the above comments. This could have resulted in a different Policy 1, combining the existing Church IOWA together with an appropriate area of land at Church Field, and created and worded in a way that has regard to national policy and meets the basic conditions.

Instead, the landowners were unaware of the Local Green Space proposals until very late on in the process, only finding out the Neighbourhood Plan's intentions just prior to the public consultation stage – once the plan-makers had already made up their minds to seek to designate LGS-HRC as a Local Green Space, albeit in a significantly flawed manner. This does not constitute contacting "*landowners at an early stage about proposals to designate any part of their land.*" Simply, the landowners were not contacted at an early stage – despite it being highlighted as a key issue by national guidance and by North Dorset District Council¹⁰ and its own issued guidance.

Further to the above, it is relevant to point out that, at no stage, were the landowners ever contacted by the plan-makers. They were simply expected to respond through consultation. This fails to have regard to national policy.

In the case of LGS-HRC, once the landowners did become aware, they immediately submitted a representation highlighting problems with the proposed designation of LGS-HRC. The response¹¹ to these was not objective, but was dismissive and inappropriate:

"The land is not identified as needed to meet the built development needs of the area (as there are more suitable sites allocated or otherwise available)...The designation does not restrict uses compatible with its undeveloped character."

Firstly, the Neighbourhood Plan does not allocate any development sites, but suggests "*possible*" sites, which is an entirely different thing, so the first sentence above is wholly incorrect. Secondly, the Neighbourhood Plan's own interpretation of Local Green Space has been proven to be in direct conflict with that of national policy. In this regard, the reference to "*uses compatible with undeveloped character*" is wholly irrelevant.

Notwithstanding the above, at no time, despite the obvious issues with the proposed designation of LGS-HRC, with Policy 1 and with the supporting evidence, rather than seek to discuss the matter with the landowners, the plan-makers simply relied on the brusque and inappropriate response above. This failing in the consultation process does not have regard to national policy and advice and fails to meet the basic conditions.

¹⁰ Ref: North Dorset District Council Response to Pre-Submission Consultation (page 2 of representation to Policy 1)

¹¹ Ref: Consultation Summary. Paper to 3 March 2016 Parish Council Meeting

Thus, in this case, we have a circumstance where, contrary to the basic conditions, landowners were never contacted, either at an early stage, or at any other time, with regards the proposed designation of Local Green Space. Furthermore, even when, finally, landowners had the opportunity to make a representation, in the case of the proposed designation of LGS-HRC, the representation was summarily dismissed on an entirely flawed basis.

- **It is therefore evident that, in respect of the proposed designation of LGS-HRC, the consultation process was insufficiently robust. This in itself does not bring into question other general aspects of the consultation process. From consideration of the submission documents, it is clear that plan-makers committed significant time and effort to ensure that consultation formed a major part of the Neighbourhood Plan. However, in the case of Local Green Space, the methods of engagement failed to have regard to national policy and advice and in this respect, Policy 1 does not meet the basic conditions.**

2 vii) Conclusion and Suggested Modification to Meet Basic Conditions

Policy 1 of the Neighbourhood Plan does not have regard to national policy and advice. It does not meet the basic conditions.

In the above regard, Policy 1's failings are multiple, as set out above. It would be preferable to be able to suggest that Policy 1 simply be amended, with a new wording and in the case of LGS-HRC, its replacement with the designation of a non-extensive Local Green Space to coincide with the Church IOWA, together with the Church Field land to the north west of the church. However, for the Independent Examiner to do this would be a bold step – it would effectively mean completely re-writing a Policy and in so doing, changing its meaning from that intended by the plan-makers. It could lead the Neighbourhood Plan wide open to legal challenge in the future, with resultant resource implications.

It is therefore suggested, in the interest of progress, that Policy 1 is deleted. Subject to other modifications, this could enable the Neighbourhood Plan to progress to Referendum and subsequently, to being made.

There would then be nothing to prevent plan-makers from progressing a revised Neighbourhood Plan, to include an appropriately evolved, evidenced and worded Local Green Space policy.

An alternative, subject to the need for other major changes to the Neighbourhood Plan, in order for it to progress to Referendum, is for plan-makers to step back a stage. Rather than progress with a Neighbourhood Plan without Local Green Space and other Policies, changes could be made and Regulation 14 and 16 consultation be undertaken again. This could provide for the most efficient way to ensure that an appropriate Neighbourhood Plan forms part of the development plan for the future of Shillingstone.

Were it proposed to press ahead with Policy 1 regardless, the proposed designation of LGS-HRC should be reduced in size, in order to meet the basic conditions and better reflect the IOWA it would replace. The designation might include the area of footpaths to the north and north west of the site, given their recreational value.

However, it is noted that the North Dorset Local Plan (2016) provides an excellent opportunity for the proper, robust consideration of IOWAs – it allows for their review through the emerging Local Plan Part II. It is suggested that it would be appropriate – and present a timely opportunity – for a proper review of IOWAs, together with the identification, promotion and designation of Local Green Space.

3. Policy 5 - "Land within the settlement boundary"

I note above that Shillingstone Parish Council reported¹² that, further to Neighbourhood Questionnaire, "it was apparent the overwhelming community consensus looked to preserve the...IOWAs, provide enough housing to meet local needs and keep the existing development boundary" (my emphasis).

Notwithstanding the very clear, indeed "overwhelming" community steer that had emerged through public consultation, Policy 5 of the Neighbourhood Plan proposes a new settlement boundary for Shillingstone and simply identifies the settlement as "the main area of search for development."

This does not comprise a land use planning policy. It comprises a "Community Action" or local aspiration, whereby, at some stage in the future, there will be a "search" for development sites. The "Policy" does not set out any criteria against which development proposals might be judged. In conflict with Paragraph 154 of the Framework, Policy 5 does not provide a decision maker with a clear indication of how to react to a development proposal.

Policy 5 does not have regard to national policy and advice. It does not meet the basic conditions.

Further to the above, the proposed settlement boundary itself – as well as directly conflicting with the overwhelming community consensus identified by the Parish Council - is somewhat arbitrary and introduces confusion. For example, it fails to correspond to the established Conservation Area boundary, or to the established District-wide Landscape Character Area Assessment that partially underpins the North Dorset Local Plan's (2016) approach to the natural environment. This leads to the potential for conflict with the local strategic policy approach to heritage assets and local character. Whilst not, in itself, a reason to dismiss the proposed settlement boundary out of hand, it adds to the level of confusion created by Policy 5.

There is no requirement for the Neighbourhood Plan to create a new settlement boundary. In the absence of land allocations, or directly related criteria to judge planning applications against, it is open to question why plan-makers have sought to create a new and potentially confusing settlement boundary.

In addition to all of the above, it is important to point out that, as proposed in Policy 5/Map 7, the revised settlement boundary would exclude the following:

- **Holy Rood, Shillingston. (Shillingstone Parish Church)**
- **Shillingstone Churchyard**
- **Shillingstone Rectory**
- **Shillingstone Coach House**

¹² Ref: Minutes Shillingstone Parish Council Meeting 4 December 2014

- **The Old Rectory, Shillingstone**
- **The Old Rectory Garden, Shillingstone**
- **The New School**
- **The Forum School**

To seek to exclude the Parish Church and the majority of the most important buildings in the village – all of which are located in the centre of the village - from the village boundary is a somewhat unusual approach.

Excluding the village's most distinctive and historical features – that form the basis of the settlement's character and the reason why much of it is designated as a Conservation Area – lacks any appropriate justification or substantive evidence.

It results in a highly confusing settlement boundary that makes little, or no, geographical sense.

Excluding the village's most important public buildings from the village fails to have regard to national policy, which amongst other things, requires the:

"...retention and development of local services and community facilities in villages..."
(my emphasis) (Paragraph 28, the Framework).

It is also noted that Planning Practice Guidance requires land use planning policies to be precise and concise¹³.

Policy 5 does not meet the basic conditions. It should be deleted.

¹³ Ref: Planning Practice Guidance 41-041020140306.

4. Policies 7 – 13 inclusive – “Possible development sites”

Policies 7 to 13 (inclusive) are not land use planning policies.

The Policies fall within the Section entitled “Possible development sites.” Consequently, the seven sites referred to within pages 20-27 of the Neighbourhood Plan *do not* comprise land allocations. In this regard, the Neighbourhood Plan clearly refers to “Possible sites” in both the title of this section and in the table on page 20, identifying the “Possible sites.”

Land is either allocated for development – and is therefore a development land allocation – or it is not. There is no land use planning policy for “possible development sites.” In this regard, the Neighbourhood Plan is neither concise nor precise and it fails to provide a decision maker with a clear indication of how to react to a development proposal.

It is not within the gift of the Independent Examiner to allocate land for development. The Neighbourhood Plan has progressed through consultation on the basis that it includes “Possible sites” for housing rather than land allocations. Were the Neighbourhood Plan to have promoted land allocations, then these should have emerged through the appropriate land allocation process.

Policies 7 to 13 need to be deleted from the Neighbourhood Plan. They could form part of a “Community Action,” aspiration or similar, but they do not comprise land allocations.

This has a significant knock-on impact on the rest of the Neighbourhood Plan. As it does not allocate land for development, it does not provide any certainty with regards where development might take place in the future. Whilst there is no requirement for a Neighbourhood Plan to allocate land for development, it needs to be recognised that not allocating land could have an impact on other Policies in the Neighbourhood Plan. This is especially so where, as in this case, the supporting text of the Neighbourhood Plan states, amongst other things, that:

“...the allocation of these homes will...to provide a degree of certainty over the likely development issues...” (page 20)

Also, for example, it is noted earlier in this Representation that the designation of Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services.

The Neighbourhood Plan suggests that it is "*allocating*" homes and providing "*a degree of certainty*" but is not doing so. This places a significant question mark over whether the designation of Local Green Space is consistent with the local planning of sustainable development. In this case, Policy 1 (Local Green Space) is already fatally flawed for a large number of specific reasons, but were plan-makers to seek to provide for Local Green Space at some stage in the future, it is important to be conscious of the direct link, identified by national policy, between Local Green Space and planning for sustainable development.

Nigel McGurk, June 2016

