

INDEPENDENT EXAMINATION OF THE STURMINSTER MARSHALL NEIGHBOURHOOD PLAN

EXAMINER: Andrew Mead BSc (Hons) MRTPI MIQ

Alison Clothier
Clerk to Sturminster Marshall Parish Council

Philip Reese
Senior Planning Policy Officer
Dorset Council

Via email

Examination Ref:02/AM/SMNP

18 March 2024

Dear Ms Clothier and Mr Reese

STURMINSTER MARSHALL NEIGHBOURHOOD PLAN EXAMINATION

Having now reviewed all the documentation submitted with the Sturminster Marshall Neighbourhood Plan (SMNP) and conducted the site visit, I have a number of questions for Sturminster Marshall Council (SMPC) and Dorset Council (DC) which seek clarification on some of the matters within the SMNP.

In order to progress the examination, I would be grateful for responses to my questions to be provided by **Wednesday 3 April 2024**, if possible. All the points set out below flow from the requirement to satisfy the Basic Conditions.

1. Date of submission to DC.

Q to SMPC. Please could the date of the submission of the Sturminster Marshall Neighbourhood Plan to DC be confirmed?

Whilst the documents were originally submitted in December, with the agreement of Dorset Council some minor amendments were made, with the final version (as accepted) submitted on 10 January, and acknowledged by Dorset Council on 11 January 2024.

2. The Sturminster Marshall Design Guidance and Codes

Q to SMPC and DC. In the Regulation 16 representations, DC comments about the reference in the SMNP to the Design guidance at paragraph 2.3.2 and in Appendix 2 (List of Supporting Evidence). Whereas I agree that more liberal links to the Code within the policies could reduce duplication, my function is to assess the Plan against the Basic Conditions rather than seek for ways to improve it. Nevertheless, a link to the Design guidance could assist the development management of design issues and perhaps Policy SMNP9 could be rephrased by the addition of "... and the Sturminster Marshall Design Guidance and Codes (April 2023)" at the end of the first sentence. Do the Councils have any comments?

*Parish Council (the Qualifying Body – QB):
The Design Guidance and Codes were produced by AECOM with input from the Steering Group between December 2022 and April 2023). However it was not subject to wider consultation,*

and in developing the design policies and character descriptions and design principles written into the NP itself, this has at times deviated from the guidance and codes where it was considered appropriate to do so.

The Steering Group were also conscious that the design guidance was quite lengthy (and in places repetitious), and sometimes was not as clear as it could be. The Design Guidance and Codes are some 127 pages long, whereas they have been 'translated' into 25 pages in the Plan.

The Steering Group are not sure that referencing the Design Code would add any further value to the Plan, and may dilute or confuse the key design points (that have been embedded into the Plan). However if the Examiner were to consider cross-referencing the Design Guidance and Codes would nonetheless be beneficial, this should make clear that any differences between the NP and the Design Guidance and Codes Report should be resolved in favour of the NP policies.

Dorset Council:

From the Parish Council response, it is clear that they have considered the content of the AECOM Design Guidance and Codes document, and copied the sections that they felt were appropriate into their neighbourhood plan. The NP has been subject to two rounds of public consultation, whereas the AECOM document appears not to have been (although it was presented as a supporting document during the Reg 14 and 16 consultations). We appreciate that the Examiner's role is primarily to assess the NP for compliance with the Basic Conditions. On reflection, therefore, it does not appear necessary for the Examiner to require that the contents of the AECOM document is directly referred to in the NP. However, we think it might be useful for the QB to add a sentence or paragraph in the supporting text which sets out the relationship between the AECOM document and the NP. The QB may also wish to consider whether they could make greater use of the content of the AECOM document in the future, perhaps when they undertake a neighbourhood plan review.

3. Policy SMNP3 Sewage Treatment Works

Q to SMPC and DC. The Basic Conditions Statement comments that there are no relevant strategic policies with which this policy should generally conform. One of the conclusions of the adopted Christchurch and East Dorset Local Plan – Part 1 Core Strategy is to ensure that adequate services and infrastructure are provided (paragraph 5.64). Therefore, it seems to me that Policy SMNP3 would generally conform with the strategy of the Local Plan and therefore meet that element of the Basic Conditions. Do the Councils have any comments?

Parish Council (the Qualifying Body – QB):

Para 5.64 is in the 2002 East Dorset Local Plan (the same wording was not used in Core Strategy). Policy HSUP2 from that plan was potentially the relevant policy to this, as it did refer to the need to prioritise sites according to the provision of infrastructure, but that policy was not saved.

The Parish Council's view is that the absence of a strategic policy does not necessarily raise a conformity issue – otherwise it would not be possible to develop a Neighbourhood Plan in areas that are without a Local Plan. Indeed, there is a useful legal ruling on this point in [Gladman Developments Ltd, R \(on the application of\) v Aylesbury Vale District Council & Ors](#)

[\[2014\] EWHC 4323 \(Admin\) \(18 December 2014\) \(bailii.org\)](#), where the Judge (Mr Justice Lewis) stated:

“In my judgment, a neighbourhood development plan may include policies dealing with the use and development of land for housing, including policies dealing with the location of a proposed number of new dwellings, even where there is at present no development plan document setting out strategic polices for housing. The examiner was therefore entitled in the present case to conclude that the Neighbourhood Plan satisfied basic condition 8(2)(e) of Schedule 4B to the 1990 Act as it was in conformity with such strategic policies as were contained in development plan documents notwithstanding the fact that the local planning authority had not yet adopted a development plan document containing strategic polices for housing.”

Dorset Council:

As the QB point out, the para 5.64 which is referred to in the Examiner’s question is from the 2002 East Dorset Local Plan (EDLP). This plan has largely been replaced/superseded by the 2014 Christchurch and East Dorset Local Plan Part 1 (CEDLP). Only a limited number of 2002 EDLP policies were ‘saved’; the majority have been deleted. Para 5.64 appears to be a summary of the overall strategy of the 2002 EDLP, and therefore we would no longer consider it to be relevant.

As the QB point out, the wording of EDLP para 5.64 was not carried forward into the 2016 CEDLP. However, para 3.3 of CEDLP summarises the section of NPPF which sets out what strategic policies should cover (now NPPF para 20), and this includes infrastructure for “transport, minerals, waste, energy, telecoms, water supply and water quality.” Rather unfortunately, in this instance, the term “wastewater” was omitted (it appears in NPPF), although perhaps it was felt that the broader term “waste” encapsulated it.

The Vision of the CEDLP states that “Housing ... will make appropriate contributions to infrastructure.” This could be read as support for draft NP Policy SMNP3. The impact of development on infrastructure capacity is also considered by CEDLP Policy KS2 which states: “The location, scale and distribution of development should conform with the settlement hierarchy, which will also help to inform service providers about the provision of infrastructure, services and facilities.”

Unlike local plans, neighbourhood plans cannot include ‘strategic policies’, but instead should include ‘non-strategic policies’. Regarding these, NPPF para 28 states that non-strategic policies can include, inter alia, “the provision of infrastructure and community facilities at a local level.” The Basic Conditions Statement makes reference to paragraph 020 of the Water supply, wastewater and water quality PPG. We would add that paragraph 007 which considers “What might need to be considered when planning for water infrastructure, water quality and wastewater?” is also relevant. It states that plan-making may need to consider “the sufficiency and capacity of wastewater infrastructure.”

We therefore agree with the QB that the absence of a relevant policy at the strategic local plan level is not an indication of non-conformity. Instead, it is the government’s intention (as set out in the NPPF and associated guidance) that local communities can use neighbourhood plans to ‘fill in the gaps’ and provide detailed, locally specific policies where there is an absence of strategic policy.

4. Policy SMNP4 Maintaining Local Character

Q to SMPC. Policy SMNP4 aims to protect the rural character of the area and includes four bullet points which are elements of the countryside. I do not disagree with what the policy seeks to achieve, but following the Regulation 16 comments of DC, it seems to me that the character of the village is safeguarded by subsequent policies of the Plan and Policy SMNP4 is geared to proposed development outside the area of Sturminster Marshall village. Therefore, the suggestions of DC in the second paragraph of the comments on Policy SMNP4 appear pertinent. Does SMPC have any comments?

This policy is intended to highlight local landscape features that should be retained (and where possible enhanced). These mainly relate to the countryside, but some, such as the influence of trees and hedgerows and the river system, also occur around the edge of the built up area and sometimes within it. However it is accepted that where the latter is the case, these have generally been picked up in section 6.2 on the built environment. As such, this policy could be amended to only refer to land outside of the built-up areas of the parish, i.e.

*Policy SMNP4. MAINTAINING **RURAL** CHARACTER*

Outside of the existing built-up area, development should retain the rural character of the countryside, paying particular regard...

5. Policy SMNP4 Protecting and enhancing our local wildlife and habitats.

Q to SMPC. Does SMPC have any comments about the DC Regulation 16 response?

Presume the question was intended to refer to SMNP7. Broadly accept the points made to help clarify the policy, so that it would read:

*Policy SMNP7. **PROTECTING AND ENHANCING OUR LOCAL WILDLIFE AND HABITATS***

Any development (other than exempted by national regulations) will be expected to include a biodiversity gain plan which demonstrates how a minimum 10% net biodiversity gain will be achieved. Where measures are proposed to mitigate harm to, and where practicable strengthen, biodiversity, consideration should be given to:

- the use of grass / sedum roofs where this would be compatible with the character of the area;*
- planting native hedgerow and tree species on site boundaries and within the public realm, where possible reinforcing and linking existing green corridors;*
- the use of bee bricks, bird bricks and bird and bat boxes within new buildings and extensions / alterations;*
- the use of ponds, swales and other vegetated and wild-life friendly flood-mitigation features;*
- wider opportunities to enhance the existing and potential ecological networks, including existing field hedgerow boundaries, ponds and watercourses in the vicinity of the site, and those identified by Dorset LNP and shown on Dorset Explorer.*

Measures to improve wildlife habitats, including their resilience to climate change, will be supported.

6. Policy SMNP14

Q to SMPC. The DC Regulation 16 response identifies a possible error in phraseology. After reading the Pre-Submission version of the Plan (June 2023), I can see what the policy is aimed at. Would the SMPC care to redraft the Policy and copy in DC so that they may comment on the new phrasing? Perhaps a new bullet point is needed to deal with affordable housing thresholds.

Parish Council (the Qualifying Body – QB):

The word ‘comprising’ in the first sentence is redundant (as it was replaced by the words that follow). However it may be possible to word the policy more simply, along the following lines:

Policy SMNP14. HOUSING TYPES

New housing developments should seek to meet the housing needs priorities of Sturminster Marshall parish. This means that

i) for major development, affordable housing should be provided in line with the thresholds set in the Local Plan, and include: affordable rented homes, and particularly social rented options, aimed at those living in or who have a local connection to the parish and who are on below average incomes; as well as intermediate affordable homes such as first homes and shared ownership options, aimed at those living in or who have a local connection to the parish who are looking to buy but are unable to afford open market prices. First Home sale prices should be discounted by 40% (or otherwise evidenced so that the level of discount is affordable to those on mean household incomes), and make up at least 25% of affordable dwellings.

ii) in terms of market housing, whilst a broad mix is encouraged, on major development sites the mix should include homes suitable for older residents looking to down-size into accessible and adaptable dwellings, and homes suitable for young adults and families looking to get onto the housing ladder. Larger (4+ bedroom) homes should not exceed 20% of the market housing mix and be designed to be adaptable to include the ability to provide annexed accommodation or greater live-work flexibility.

iii) in order to support home-working, the design of new housing (other than that specifically designed for older residents) should include clearly identifiable space within the home (or within an outbuilding in the curtilage) that can be used as a designated work area (i.e. not part of the shared living space).

Dorset Council:

Revised policy wording noted and supported as it provides greater clarity.

7. Policy SMNP18

Q to SMPC. Does SMPC have any comments about the Regulation 16 responses from DC and from Wyatt Homes which seek to delete the policy?

Many of these concerns (from DC and Wyatt Homes) were raised as part of the Regulation 14 consultation, and our response to them is detailed in the consultation statement (please refer to page 22 of that report). With reference to existing POS capacity as set out in Wyatt Homes’s Regulation 16 response, we do not agree with all of the figures cited – for example, capacity at the school is not available for wider use. As part of the Regulation 16 consultation

it is also noted that the Chairman of the Sturminster Marshall Football Club has confirmed the need for additional space, this evidence was not available at the time the plan was submitted for examination.

Dorset Council's main concern regarding Policy SMNP18 is that it may not be deliverable given the intent of Wyatt Homes (who are promoting the site but are not the landowner) and that the policy may be superseded in due course by the Dorset Council Local Plan if the decision is taken to allocate the site for housing. They note that Policy SM3 remains in place in the interim (but also concede that it is part of a Plan that is more than 5 years old, implying that it is therefore not up to date).

Wyatt Homes suggest that Policy SM3 is 'undeliverable' and that SMNP18 is allocating an unsustainably large piece of land for the proposed uses (allotments, MUGA, skate park and parking provision to serve these). Whilst they indicate that they are willing to work with the community to assess need and suitable locations for different types of open space or where appropriate and proportionate, and may incorporate an element of this on site or provide offsite contributions. However this falls short of providing any real certainty over such facilities being provided.

It is also noted that, since the submissions were made by both Dorset Council and Wyatt Homes, the Council has announced its intent to 'restart' the Local Plan programme under the new style system. As such, the emerging policy SMTR2 has in effect been abandoned and it would not be appropriate to give any weight to it at this time. The Parish Council entirely accepts Dorset Council's point that any strategic decisions through the Local Plan may override the Neighbourhood Plan policies, but any certainty on this is now pushed back until 2027.

As perhaps evident from the Consultation Statement, the Parish Council and community are sceptical that the current land promoters have any real commitment to deliver some much needed recreation provision on a site which was earmarked and fully expected to deliver such by the community, despite this being already enshrined in an adopted policy (and therefore material to the land value).

Whilst there has been no coordinated effort to bring this site forward as sports pitches, as explained in the consultation statement, this is more reflective of the lack of joined-up working between Local Government and Sports Clubs and lack of clarity within the 2002 Local Plan as to who would take this forward.

Moreover, this site is particularly well suited for such provision, being well located and reasonably level ground, on one of the main thoroughfares, and close to other local facilities.

Wyatt Homes has not always been the site promoter – and at the time of the Local Plan consultation in 2021 it was Grasscroft Homes and Property Ltd who responded to the Local Plan consultation – and their illustrative master plan (submitted as part of their representations¹) included the retention of over 1.6ha as POS and green infrastructure.

Whilst the Parish Council agreed reluctantly to the deletion of any specific reference to sports pitches (as at the time the plan was submitted no such statements on need were forthcoming from the Football Club), the Council does not wish this policy to be deleted. The

¹ [https://apps-dorset.s3.amazonaws.com/89e69bc49a1f4/Redacted%20-%202021-03-15%20-%20Grasscroft%20\(Land%20at%20Station%20Road\)%20\(Avison%20Young\)%20Part%202.pdf](https://apps-dorset.s3.amazonaws.com/89e69bc49a1f4/Redacted%20-%202021-03-15%20-%20Grasscroft%20(Land%20at%20Station%20Road)%20(Avison%20Young)%20Part%202.pdf)

Neighbourhood Plan consultations highlighted the need for other recreation needs (allotments / skate park / MUGA) which are much less space-intensive than additional sports pitches, and therefore were considered to be more readily deliverable. A MUGA typically requires 37x18.5m = approximately 700m² (0.07ha). Skate parks range in size but guidance² suggests an area of 500m² for 20 users (0.05ha) would be appropriate. An area of allotments to serve the village would require in the region of 0.375ha (based on Core Strategy policy HE4 at 0.25ha per 1000 population). Therefore the total area needed for these would be just under 0.5ha plus parking - considerably less than the site area shown in the NP (which measures 3.2ha), This is the reason why the policy uses the wording 'met within' – a point that seems to have been lost on Wyatt Homes who have read the policy as requiring the whole site area. Such a requirement seems entirely reasonable given that the site promoter in 2021 was suggesting that more than twice this area would be provided for POS / landscaping, and that the land value should have reflected the current policy requirements for sports pitches.

Perhaps an appropriate way forward would be to provide some indicative sizes as part of the policy or supporting text to more clearly explain the above. Whilst alternative sites (and financial contributions) could be considered for such provision, the Parish Council is reluctant to accept sites would be less visible and accessible to the local community, and would be very concerned for the default to become a financial contribution when no acceptable alternative site has been identified.

The policy could therefore be re-worded along the following lines:

The following sport and recreation needs of the community should be met within the area of land at Station Road that was identified in Saved Local Plan Policy SM3 and is shown in Fig. 20:

- An area for allotments (requiring approximately 0.4ha)*
- A Multi Use Games Area (requiring approximately 0.07ha)*
- A skate park (requiring approximately 0.05ha)*
- Car parking to serve the above sports and recreation facilities.*

If the site is required for other forms of development, then alternative provision must be secured on a site / sites that are as well related to the local community and readily visible and accessible from one of the main routes through the village.

8. Other Comments

Q to SMPC. I would be happy to have comments from SMPC on any of the other points raised by DC in its Regulation 16 response.

SMNP1 – the Parish Council would be happy to update the references to the Sustainability Statement now that it has been finalised (this appears more pertinent than the other two documents referenced). In doing so, it is noted that the reference to the adopted Local Plan policies picks out ME3, but not ME4 – it is not clear why ME4 is not referenced and the Parish Council would welcome discussing this further with Dorset Council.

Map 3 – the Parish Council are unclear why the 2019 groundwater maps are considered preferable to the more recent 2023-based maps supplied, which appears to be much more

² <https://static1.squarespace.com/static/5a79d837aeb625f12ad4e9b2/t/65f05be96f2dbc4ea6405ade/1710250995918/2024+skateboard+design+and+development+guidance+toolkit+april+2021+ne.pdf>

comprehensive. The suggested 2019 maps only cover parts of the County, and appear to artificially 'stop' to the south side of the A350 when from local knowledge there is considerable groundwater flooding to the north side of the A350. There are numerous springs in the area (such as at Dorset Spring) which are much more likely to be considered using the current map but would not be considered using the suggested 2019 data. As such the Parish Council would prefer to retain the Map as shown in the NP until such time that more up-to-date mapping is available.

SMNP2 – whilst ongoing SUDs maintenance should rightfully be conditioned/subject to a legal agreement, the Parish Council does not interpret the Written Ministerial Statement as advocating that the details of such SUDs cannot or should not be considered as part of the application. The reason why the Parish Council wish to have the management / maintenance arrangements for SUDs available as part of the submitted application is in order for there to be an opportunity for public scrutiny and comment on these (as there could be much value in having local knowledge on flooding issues to ensure the measures will be effective). As such, the Parish Council would nonetheless wish for the proposed approach to be at least outlined prior to determining the application, even if the measures are not fully detailed and will be subject to a condition.

SMNP14 – whilst possible viability issues are noted, the word 'should' is used in relation to home working provision and first homes which does provide the opportunity for such matters to be taken into account – it may be (for example) that rather than having no home-working area, that a smaller workspace can nonetheless be provided. The Parish Council do not consider it appropriate to waive such a requirement for affordable housing as clearly such space is beneficial so affordable housing tenants who may need to work from home.

SMNP17 – we disagree with the Council's suggestion that this should be deleted as it reads as an aspirational policy– particularly given that there are similar policies in other Dorset NPs. Examples include the Puddletown Neighbourhood Plan Policy 14, Chickerell Neighbourhood Plan Policy CNP1, Upper Marshwood Vale Neighbourhood Plan Policy UMV1 etc. The Dorset Council raised not objection to this policy at Regulation 14.

In the interests of transparency, may I prevail upon you to ensure that a copy of this letter is placed on both the Parish Council and Dorset Council websites.

Thank you in advance for your assistance.

Yours sincerely

Andy Mead

Examiner