

From: [REDACTED]
Sent: 04 April 2026 20:28
To: NeighbourhoodPlanning; [REDACTED]
Subject: DRAFT REPRESENTATION TO EXAMINER - Shaftesbury Neighbourhood Plan/Examiner's Letter 16th Mar 2026

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1. Introduction

This representation is submitted in response to the Examiner's letter dated 16 March 2026 regarding the application of new legal requirements introduced by the Levelling-up and Regeneration Act 2023.

It focuses specifically on whether the submitted Shaftesbury Neighbourhood Plan Review (November 2025) complies with:

- The **revised Basic Conditions**, particularly the new housing requirement
- The **new legal compliance duties** relating to climate change and nature recovery
- The broader requirement that the Plan be **capable of lawful examination under the amended statutory framework**

2. Failure to Meet the New Housing Basic Condition

2.1 Legal Test

The amended Basic Condition requires that:

“the making of the neighbourhood plan does not result in less housing being provided... than would otherwise be the case.”

This is a **quantitative and comparative test**, not merely a policy alignment exercise.

2.2 Absence of Comparative Assessment

The Plan contains:

- Housing growth figures (e.g. 1,468 additional homes by 2031)
- Site allocations

However, it **does not contain any assessment of:**

- Housing delivery **with the Plan vs without the Plan**

- Whether policies **constrain, delay, or reduce delivery**

👉 This is a **fundamental omission** under the new statutory test.

2.3 Restrictive Policy Framework

The Plan repeatedly emphasises:

- Limited developable land due to environmental constraints
- Protection of slopes, views, and biodiversity
- Strong spatial restriction of development

(see e.g. constraints and growth limitations described in the Plan)

2.4 Policy Effect vs Stated Intent

While the Plan states it cannot “block development,” it:

- Directs development into **limited locations**
- Imposes **qualitative and environmental constraints**
- Promotes concepts such as a “**developer-free Green Wheel**”

👉 The **practical effect** is likely to:

- reduce site availability
 - constrain density
 - impact viability
-

2.5 Conclusion on Housing Test

There is:

- No evidence the Plan maintains housing delivery
- Strong evidence it may constrain delivery

Accordingly, the Plan **fails the new Basic Condition** unless substantial evidence is provided.

3. Climate Change Legal Compliance – Insufficiently Structured

3.1 Legal Requirement

Plans must be:

“designed to secure that development contributes to the mitigation of, and adaptation to, climate change”

3.2 Observations

The Plan:

- Refers to sustainability and climate change (Introduction section)
- Contains general aspirations

However:

- There is **no clear framework of measurable climate outcomes**
 - No evidence of:
 - carbon reduction strategy
 - adaptation measures tied to policy
 - implementation mechanisms
-

3.3 Legal Issue

The requirement is **design-led and outcome-focused**, not aspirational.

The Plan appears to rely on:

- narrative statements
- general policy wording

This is unlikely to satisfy the statutory requirement.

4. Nature Recovery Requirement – Lack of Demonstrable Alignment

4.1 Legal Requirement

Plans must:

take account of any Local Nature Recovery Strategy (LNRS)

4.2 Observations

The Plan:

- Strongly promotes biodiversity and green infrastructure
- Identifies green spaces and corridors

However:

- There is **no explicit linkage to an LNRS framework**
 - No demonstration of:
 - alignment
 - integration
 - prioritisation based on statutory strategy
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4.3 Legal Issue

General environmental ambition ≠ compliance with statutory LNRS duty

5. Environmental Assessment Basic Condition – Legal Uncertainty

The Examiner notes that:

compliance cannot currently be assessed

Observation:

This creates a **procedural problem**:

- A Basic Condition exists
 - But compliance cannot be tested
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Legal Implication:

Proceeding to examination or recommendation under such uncertainty risks:

- procedural unfairness
 - premature decision-making
 - potential vulnerability to legal challenge
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6. Internal Inconsistency and Evidential Gaps

6.1 Acknowledged Constraints

The Plan explicitly states:

- Development capacity is limited
- Environmental constraints restrict expansion

6.2 Lack of Delivery Evidence

There is no:

- viability assessment tied to policies
 - delivery trajectory testing policy impact
 - assessment of cumulative constraint effect
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6.3 Result

The Plan is **evidence-light in precisely the areas now required by law**

7. Procedural Fairness and Transitional Concerns

The Plan was:

- prepared under the **previous legal framework**
 - submitted prior to the commencement of the new provisions
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Issue:

The Plan is now being assessed against:

- materially different statutory tests
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Implication:

Without substantial revision and consultation:

- stakeholders have not had a proper opportunity to address the new requirements
 - the process risks **procedural unfairness**
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8. Requested Outcome

Given the above, it is respectfully submitted that:

Option A (Preferred – Legally Robust)

The examination should be:

paused or remitted, to allow the qualifying body to:

- provide a **housing delivery comparison assessment**
 - demonstrate compliance with:
 - climate duty
 - nature recovery duty
 - address environmental assessment requirements
 - undertake appropriate consultation
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Option B (Alternative)

The Examiner should find that:

the Plan **does not meet the Basic Conditions** in its current form

and recommend **substantial modification**.

9. Conclusion

The introduction of new statutory requirements is not a minor procedural change.

It goes to the **heart of the Plan's legality**.

In its current form, the Plan:

- does not demonstrate compliance with the new housing test
 - does not meet the structured requirements for climate and nature
 - relies on an evidence base aligned to a superseded legal framework
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Accordingly, it cannot be considered compliant without significant further work.

kind regards

Karen Tippins

Shaftesbury Resident (Member of the Public)