



# **Fontmell Magna Neighbourhood Plan**

**A report to North Dorset District Council**

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Independent Examiner**

**August 2018**

## **Executive Summary**

I was appointed by North Dorset District Council on 15 June 2018, with the agreement of Fontmell Magna Parish Council, to carry out the independent examination of the Fontmell Magna Neighbourhood Plan.

The examination was completed solely on the basis of the written representations received, no public hearing appearing to me to have been necessary. I made an unaccompanied visit to the area covered by the Plan on 12 July 2018.

Fontmell Magna is a rural parish in North Dorset. The Parish Council decided to commission the preparation of a neighbourhood plan in May 2015, and it was formally submitted to North Dorset District Council in March 2018. The Local Plan for the area designates Fontmell Magna as a “larger village” which will be expected to deliver its proportion of the total new dwellings within the District over the Plan period, as a contribution towards meeting identified local and essential rural needs. The Neighbourhood Plan concludes that the appropriate “share” for the village should be 30-35 dwellings for the 15-year period 2016-2031, although this figure is challenged by two principal objectors.

The Plan sets out a range of policies designed to protect elements of the natural and historic environment within the Parish, taking account of its proximity to the Cranborne Chase and West Wiltshire Downs AONB; to influence the most appropriate location, types and character of new housing and other development; to improve accessibility and safety; to address issues of flooding and drainage; and to support existing community facilities and the rural economy.

Subject to a number of recommendations (principally for changes to the way in which certain policies are expressed), I have concluded that the Fontmell Magna Neighbourhood Plan meets all the necessary legal requirements at this stage of its preparation, and consequently am pleased to recommend that it should proceed to referendum.

## **Contents**

- Introduction
- Procedural matters
- A brief picture of the Neighbourhood Plan area
- The basic conditions
- Other statutory requirements
- National policy
- The existing Development Plan for the area
- The consultation exercise (Regulation 14)
- General observations about the Plan
- Representations received (Regulation 16)
- The Neighbourhood Plan's approach to the identification of sites for housing
- The policies:
  - Policy FM1: Local green spaces
  - Policy FM2: Local wildlife corridors and protected species
  - Policy FM3: Important views
  - Policy FM4: The setting of the AONB
  - Policy FM5: Local landscape features
  - Policy FM6: Dark skies
  - Policy FM7: The Conservation Area and locally important features
  - Policy FM8: Development layout
  - Policy FM9: Building design
  - Policy FM10: Creating safer roads and pedestrian routes
  - Policy FM11: Sustainable drainage
  - Policy FM12: Development impacting on the sewage treatment works
  - Policy FM13: Important community facilities
  - Policy FM13A: Social infrastructure
  - Policy FM14: Facilitating home working
  - Policy FM15: Supporting existing businesses
  - Policy FM16: Housing types
  - Policy FM17: Spatial strategy for new development
  - Policy FM18: Settlement boundary
  - Policy FM19: Land south of Home Farm (Site 20)
  - Policy FM20: Land at Blandfords Farm Barn (Site 22)
- Conclusions on the basic conditions
- Formal recommendation

## **Introduction**

1. This report sets out the findings of my examination of the Fontmell Magna Neighbourhood Plan (the FMNP), submitted to North Dorset District Council (NDDC) by Fontmell Magna Parish Council in March 2018. The Neighbourhood Area for these purposes is the same as the Parish boundary.
2. Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to help local communities shape the development and growth of their area, and the intention was given added weight in the National Planning Policy Framework (NPPF), first published in 2012 but revised in July 2018, which continues to be the principal element of national planning policy. Detailed advice is provided by national Planning Practice Guidance (PPG) on neighbourhood planning, first published in March 2014.
3. The main purpose of the independent examination is to assess whether or not the Plan satisfies certain “basic conditions” which must be met before it can proceed to a local referendum, and also whether it is generally legally compliant. In considering the content of the Plan, recommendations may be made concerning changes both to policies and any supporting text.
4. In the present case, my examination concludes with a recommendation that, subject to certain detailed recommendations, the Plan should proceed to referendum. If this results in a positive outcome, the FMNP would ultimately become a part of the statutory development plan, and thus a key consideration in the determining of planning applications relating to land lying within the FMNP area.
5. I am independent of the Parish Council and do not have any interest in any land that may be affected by the Plan. I have the necessary qualifications and experience to carry out the examination, having had 30 years’ experience as a local authority planner (including as Acting Director of Planning and Environmental Health for the City of Manchester), followed by over 20 years’ experience providing training in planning to both elected representatives and officers, for most of that time also working as a Planning Inspector. My appointment has been facilitated by the Independent Examination Service provided by Trevor Roberts Associates.

## **Procedural matters**

6. I am required to recommend that the Fontmell Magna Neighbourhood Plan either
  - be submitted to a local referendum; or
  - that it should proceed to referendum, but as modified in the light of my recommendations; or
  - that it not be permitted to proceed to referendum, on the grounds that it does not meet the requirements referred to in paragraph 3 above.
7. In carrying out my assessment, I have had regard to the following principal documents (references are to the Neighbourhood Planning (General) Regulations 2012 (as amended)):
  - the submitted FMNP
  - the FMNP Consultation Statement, (Regulation 14)
  - the FMNP Basic Conditions Statement (Regulation 15)
  - the FMNP Strategic Environmental Assessment Screening Report (Regulation 2(4))
  - the SEA Report itself
  - the representations made to the FMNP under Regulation 16

- selected policies of the adopted development plan for North Dorset
  - relevant paragraphs of the National Planning Policy Framework (March 2012)
  - relevant paragraphs of the national Planning Policy Guidance (March 2014 and updates).
8. I carried out an unaccompanied visit to the Plan area on 12 July 2018, when I looked at the overall character and appearance of the Parish, together with its setting in the wider landscape, and at those areas affected by specific policies in the Plan. I refer to my visit in more detail elsewhere in this report.
9. There is a general assumption that neighbourhood plan examinations should be carried out on the basis of written representations only. Having considered all the information before me, including the representations made to the submitted plan, I have been satisfied that the FMNP could be examined without the need for a public hearing (and it should be noted that there were no representations to the contrary).

### **A brief picture of the Neighbourhood Plan area**

10. Fontmell Magna is a rural parish in North Dorset, lying in the Blackmore Vale between Shaftesbury and Blandford Forum. The village itself straddles the A350, and that is where the population of the parish (around 730-740, skewed noticeably towards older residents) is concentrated. In addition, there is a small hamlet to the west (Bedchester) and one or two minor groupings of dwellings, principally spread out along the long east-west axis of the Parish. Much of the countryside within and around the Parish is in active agricultural use.
11. The built environment of the village has its origins in the 15<sup>th</sup> Century and, notwithstanding a relatively small number of “suburban” type post-war housing developments, has kept its attractive, informal character and layout. The setting of the village is of particular significance, since it sits immediately to the west of the chalk upland landscape of the Cranborne Chase and West Wiltshire Downs AONB. Views of and from within the village are dominated by the fine church of St Andrew, occupying slightly higher land, along with its burial ground. There are no fewer than 45 listed buildings (including the church) within the Parish, and the whole of the built-up area lies within a conservation area. A particular feature is the number of small green spaces within the village, many of which are closely associated with Fontmell Brook/Collyer’s Brook which runs east-west through the Parish.
12. In addition to the church, the village has a popular pub with rooms, a primary school (which is said to be expanding), a village shop/post office, a tearoom and a GP surgery. There is also a village hall, adjacent to recreation grounds.
13. The present population of the Parish is given as 730-740, living in 327 homes. The adopted North Dorset Local Plan designates it as one of 18 “larger villages” which are expected to make a contribution towards meeting identified local and essential rural needs: the FMNP concludes that the appropriate “share” for Fontmell Magna should be 30-35 dwellings for the period 2016-2031, a particular issue arising from the consultation exercises being the need to provide more affordable housing for local residents.

### **The basic conditions**

14. I am not required to come to a view about the ‘soundness’ of the plan (in the way which applies to the examination of local plans); instead I must principally address whether or not it is appropriate to make it, having regard to certain “basic conditions”, as listed at paragraph

8(2) of Schedule 4B to the Town and Country Planning Act 1990 (as amended). The requirements are also set out in paragraph 065<sup>1</sup> of the Planning Practice Guidance. I deal with each of these conditions below in the context of the FMNP's policies but, in brief, all neighbourhood plans must:

- have regard to national policy and guidance (Condition a);
  - contribute to the achievement of sustainable development (Condition d);
  - be in general conformity with the strategic policies in the development plan for the local area (Condition e);
  - not breach, and otherwise be compatible with, EU obligations, including human rights requirements (Condition f);
  - not be likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010) or a European offshore marine site, either alone or in combination with other plans or projects; and
  - comply with any other prescribed matters.
15. The Basic Conditions Statement (BCS), prepared by Dorset Planning Consultant, is dated February 2018. It begins by summarising the statutory requirements before taking each section and policy of the FMNP and assessing its relationship with the national and local planning context. I will refer to specific elements of this document as necessary when considering the detailed provisions of the Plan.
- ### **Other statutory requirements**
16. A number of other statutory requirements apply to the preparation of neighbourhood plans, all of which I consider have been met in this case. These are:
- that the Parish Council is the appropriate qualifying body (Localism Act 2011) able to lead preparation of a neighbourhood plan;
  - that what has been prepared is a Neighbourhood Development Plan, as formally defined by the Localism Act; that the plan area does not relate to more than one Neighbourhood Area; and that there are no other neighbourhood plans in place within the area covered by the plan;
  - that the plan period must be stated (which in the case of Fontmell Magna is confirmed in the Executive Summary as covering the period 2017 to 2031); and
  - that no “excluded development” is involved (this primarily relates to development involving minerals and waste and nationally-significant infrastructure projects).
17. I have also borne in mind the particular duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of “preserving or enhancing the character or appearance” of any conservation area.
18. A screening report is required in order to determine whether a neighbourhood plan needs to be accompanied by a Strategic Environmental Assessment (SEA), under the terms of the Environmental Assessment of Plans and Programmes Regulations 2004. It is the qualifying body's responsibility to undertake any necessary environmental assessments, but it is the Local Planning Authority's responsibility to engage with the statutory consultees.

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<sup>1</sup> Reference ID: 41-065-20140306

19. NDDC duly carried out a screening exercise, and their statement<sup>2</sup> accompanies the documents submitted for examination. The statement sets down the legislative background, and records that the SEA Scoping Report the Council received in December 2016 was the subject of consultations with all the relevant statutory agencies the following month. As a result of the responses received from Natural England and Historic England, NDDC concluded that an SEA was required for the following reasons:
  - the Plan was likely to allocate 30-40 dwellings;
  - some of the sites involved were either close to or within the AONB; and
  - the village and the surrounding land lay within a conservation area.
20. The results of the subsequent SEA, carried out by Dorset Planning Consultant on behalf of the Parish Council, are contained in a report dated February 2018. This details the likely impact on the environment of the objectives and individual policies of the Plan, together with appropriate mitigation and monitoring measures, all within the context of relevant national and local planning policies and related statutory provisions. A central focus of the exercise was an assessment of the possible effect of the various proposed site allocations on seven environmental criteria (such as landscape, cultural heritage etc).
21. Some of the conclusions of this work have been challenged (see below for the details and my response); however, nothing that I have read seeks to suggest that the methodology or the evidence base which underpin it are in any way flawed. In my opinion, this was a systematic and comprehensive exercise which provides a rational basis for the conclusions reached – the conclusions themselves being necessarily a matter of judgment.
22. It is a requirement under the Planning Acts that policies in neighbourhood plans must relate to “the development and use of land”, whether within the Plan area as a whole or in some specified part(s) of it. I am satisfied that that requirement is met.

### **National policy**

23. National policy is set out primarily in the National Planning Policy Framework (NPPF), a key theme being the need to achieve sustainable development. The NPPF is supported by Planning Practice Guidance (PPG), an online resource which is continually updated by Government. I have borne particularly in mind the advice in the PPG that a policy in a neighbourhood plan should be clear and unambiguous, concise, precise and supported by appropriate evidence<sup>3</sup>.

### **The existing Development Plan for the area**

24. The current development plan for the area includes the North Dorset Local Plan Part 1 (adopted January 2016), together with a number of policies “saved” from the North Dorset District-Wide Local Plan 2003. For convenience, throughout my report I will refer to these simply as parts of the (adopted) Local Plan.
25. The Council have embarked upon a review of the Local Plan, and have published an “Issues and Options” document on which consultation ended in January 2018. Basic Condition (e)

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<sup>2</sup> My copy of this is undated, but I understand it was published on 23 February 2017

<sup>3</sup> The Fontmell Magna Neighbourhood Plan was prepared and submitted before the introduction of the current version of the National Planning Policy Framework, which was published on 24 July 2018. However, paragraph 214 of the new NPPF makes it clear that the policies in the previous Framework apply for the purpose of examining plans submitted on or before 24 January 2019. All references in this report to NPPF paragraph numbers therefore relate to the *original* (2012) version.

requires neighbourhood plans to be “in general conformity with the strategic policies of the development plan for the area”: this clearly means the *adopted* development plan. However, I bear in mind the advice at paragraph 009<sup>4</sup> of the PPG, which says: “Neighbourhood plans are not tested against the policies in an emerging Local Plan although the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.”

### The consultation exercise (Regulation 14)

26. This regulation requires the Parish Council to publicise details of their proposals “in a way that is likely to bring [them] to the attention of people who live, work or carry on business in the area”, and to provide details of how representations about them could be made. Regulation 15 requires the submission to the Local Planning Authority of a statement setting out the details of what was done in this respect, and how the qualifying body responded to any matters which arose as a result of the consultation process.
27. The Consultation Statement is dated February 2018. It sets out the four stages which the Plan’s Working Group followed, from raising local awareness in July 2015; consulting on the objectives and options; and embarking on the formal consultation before the Plan was finally submitted to the District Council. This records a very comprehensive body of work, and I am more than satisfied, having read the Statement, that the requirements of Regulation 14 have been fully met by the Working Group’s activities.

### General observations about the Plan

28. The following comments may be helpful in understanding the way I have approached my report on the Plan and the observations and recommendations which I make upon it:
  - the Plan Working Group have spent considerable time and energy, in full consultation with the local community at large, in identifying the issues and objectives that they wish to include in the Plan, and this entirely reflects the aims of the “localism” agenda;
  - the recommendations I make concentrate on the policies themselves, since that is what the basic conditions relate to;
  - the Plan properly focuses on land use policies, reflecting Planning Practice Guidance;
  - I have addressed the policies broadly in the order that they appear in the submitted plan (the exception being those which are concerned with the scale and general location of the proposed new housing, which I have taken first). I have set out my views about each of the policies, irrespective of whether or not any modification is thought necessary;
  - my recommendations for changes to the policies and any associated or free-standing changes to the text of the Plan are highlighted in ***bold italic print***.
29. The Plan document begins with a Foreword from the Chairman of the Fontmell Magna Neighbourhood Plan Working Group setting out the background and summarising the consultation exercises undertaken. After a helpful executive summary of the Plan’s policies

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<sup>4</sup> Paragraph: 009 Reference ID: 41-009-20160211

and proposals, there is an introduction to the history and character of the area and the present wider planning context. This is followed by a crisp statement of the vision which informs the Plan's detailed proposals:

*"The parish of Fontmell Magna has a distinctive character that is highly valued by residents and appreciated by visitors. Our aim is to conserve the character of the village and wider parish and achieve a vibrant and thriving community, by guiding developments that will maintain the sustainability of the community and its amenities for the benefit of the local inhabitants".*

30. Four objectives are then set out:
  - to contribute to environmental sustainability
  - to maintain the local character and historic environment of the Parish
  - to conserve the natural environment of the Parish
  - to maintain and enhance a thriving local community.
31. These are then given detailed effect by the individual policies, each of which is clearly separated from their introductory and explanatory text by being placed within a coloured box; the policies are also clearly distinguished from what the Plan describes as "projects" – generally being actions which the Parish Council (and, where appropriate, its partners) intend to carry out in order to support the land-use policies themselves. The document concludes with a commitment by the Parish Council to monitor and, as appropriate, to review and update the Plan, which they intend to do by including reference to it in their Annual Report. There are then five appendices, including one listing (with relevant web-links) the documents which formed the evidence base for the Plan and one which summarises the results of the site assessment process.
32. Overall, the Plan document is attractively set out, with generous use of plans (which are commendably clear) and photographs, making it very user-friendly and easy to navigate.

### **Representations received (Regulation 16)**

33. Before dealing with the representations and commenting on the Plan's policies in detail, I would note that the formal title of the Plan does not incorporate its intended period of coverage (2017-2031)<sup>5</sup>. The convention for neighbourhood plans is generally to do this, ***and I recommend that it is done in this case.***
34. Nine representations were made in response to the submitted Plan<sup>6</sup>. Three of these are from agents on behalf of development interests in the locality; four are from public bodies (including NDDC); and two are from members of the public. Between them, the first of these elements represents a significant objection both to the housing needs assumptions which underpin the Plan's policies and the proposed spatial distribution of the related allocations. I address this important matter shortly.
35. Turning first to the public bodies:

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<sup>5</sup> A 2016 period is given as the start-date for determination of housing need, but 2017 appears to be more generally adopted in the text as the start-date for the Plan itself.

<sup>6</sup> In addition, a comment was received from Dorset County Council after the advertised closing date. This was simply to draw attention to the fact that the Minerals Local Plan includes a stone safeguarding area which includes land within the Parish, and I am satisfied that this representation has no impact on my report.

- the Cranborne Chase and West Wiltshire Downs AONB Partnership are satisfied that the FMNP Working Group have taken full account of the fact that significant parts of the Parish contribute to the setting of the AONB, and that the Plan complies with the adopted AONB Management Plan. They commend the Plan as being a good example of its kind.
  - Natural England have no objections, and welcome the inclusion of a policy on local wildlife corridors and protected species (they have two minor suggestions about wording, which I deal with under Policy FM2).
  - Historic England have some detailed observations (none amounting to an objection) in relation, in particular, to Policies FM19 and FM20. I will comment on them under the respective headings.
  - North Dorset District Council welcome the receipt of the draft Plan, recording the significant amount of work which the local community have undertaken in its preparation. NDDC officers continue to encourage dialogue with the Neighbourhood Plan Group and the Parish Council as matters progress. A number of detailed comments are made about individual policies, which I will come to in due course.
36. Mrs Gillian Severn is opposed in principle to the development of land to the west of the A350, citing the cost of highway improvements, environmental concerns, the impact on the school and social services and loss of agricultural land. The other local representation is from Mrs L Scott Walby is more substantial. While characterised as an observation rather than an objection, it nonetheless expresses considerable disappointment that the Plan lacks “teeth” when it comes to opposing development which is seen as inappropriate and unsustainable. The particular issues highlighted are local housing need, drainage, ground-water flooding and amenity.
37. To the extent that the concerns set out in this representation are relevant to my role as Examiner, I will cover them below in my observations both on the approach to the housing allocations and on the individual policies. However, a number of Mrs Scott Walby’s comments seem to me more relevant to the way planning applications are (or should be) handled, a matter which is largely beyond the scope of this examination.

### **The Neighbourhood Plan’s approach to the identification of sites for housing**

38. Before dealing with the details of the policies, including a response to the representations received, it is convenient first to address the way the Plan approaches the question of housing need.
39. Paragraph 8.2 of the Plan states that:

*“Our research into the level of housing growth likely to be needed suggests that a target of between 30 to 35 homes would be reasonable for the 15-year period from 2016 to 2031. 30 homes would equate to a ‘fair share’ of the Local Plan’s minimum target for the rural area, with any more potentially helping to provide much-needed affordable homes to reverse the outflow of younger people and families, and they could also provide other community benefits. Although there may be evidence of demand from people who ‘desire’ to live in Fontmell Magna, trying to meet the relatively limitless demand for inward migration would not be sustainable”.*

40. As part of the evidence base for this conclusion, a Housing Needs Assessment was carried out. Paragraph 8.4 of the Plan makes it clear that this exercise was “specific to the local area” and Project 5 commits the Parish Council, working with volunteers and the Local Planning Authority, to reviewing and updating it over the Plan period. Paragraph 1.8 of the Plan specifically acknowledges this possible ongoing role: *“The latest needs evidence for the housing market area encompassing North Dorset includes a higher housing requirement for the district, which suggests that this overall rural target may well be increased through the review”*. As a related matter, Policy FM16 (Housing Types) seeks to influence the mix of housing within the Parish to reflect the Plan’s stated social priorities.
41. Part 9 of the Plan deals in detail with the intended amount and location of new housing. It explains that the recently-adopted Local Plan identifies Fontmell Magna as one of the District’s larger villages, where local (ie not “strategic”) growth will be concentrated, and Policy FM17 makes provision for the Parish’s “fair share” figure of 30-35 new homes to 2031. This is seen as representing a sustainable level and pace of growth. In addition, the policy requires the sites for these dwellings to be focused on land to the west of the A350, within easy walking distance of the village and away from areas known to be at risk from flooding or which are otherwise protected; also, unless a countryside location is essential, the policy would restrict new open-market housing to land within the defined settlement boundary, on allocated sites or through the re-use of existing buildings.
42. These locational priorities are then given specific effect by the allocation of two “preferred” sites for housing: these are referenced 20 (land south of Home Farm) and 22 (land at Blandford’s Farm Barn). Two further sites are said to provide potential for development as “rural exceptions”. The selection of these sites, in preference to a number of others put forward following a “call for sites” process in 2016, is the result of work which went on to form the basis of the SEA, together with local consultation exercises, which was carried out at the pre-submission stage.
43. These two related elements of Policy FM17, that is, the approach to assessing the overall extent of housing need and the clear preference for that need to be met on land lying to the west of the A350, are each the subject of strong objection, and I will now address them in turn.
44. Ken Parke Planning Consultants Ltd (KPPC) act on behalf of London and Wessex Ltd, who own land in the village north of Mill Street. This land, identified as site 12 in the SEA, is the subject of an outline planning application for its development for a total of 29 dwellings. The consultants raise detailed objections to seven of the Plan’s policies, and I will deal with most of these under the relevant headings; so far as the broader issues of the extent of housing need is concerned, together with the spatial strategy for meeting that need, their objections may be summarised as follows:
- the housing needs assessment (HNA) carried out to inform the Plan *“does not give any consideration to the actual amount of housing which should be delivered in the parish, having regard for the most up-to-date evidence available, as per the current nationally-accepted methodology for assessing housing need”*;
  - NDDC acknowledge that they are unable to demonstrate a 5-year land supply, and so the Local Plan is out of date, leading to an acceptance of the need for an immediate review;
  - while it is accepted that taking a proportionate share of the total anticipated

growth is a rational approach, the calculation should be based on the Objectively Assessed Need (OAN) determined by the Eastern Dorset Strategic Housing Market Assessment (SHMA) 2015, as the most up-to-date evidence base – rather than the figure derived from the adopted NDLP;

- for a variety of reasons, “*it is inevitable that the rural villages are going to need to accommodate a greater share of housing growth than originally advocated*”. The HNA should therefore be fundamentally reviewed, and a different methodology adopted - an example from another North Dorset neighbourhood plan is given (I understand this to be a *recommended* approach);
- on this basis, Fontmell Magna’s share of growth for the period 2013-2033 should be 90 units, or 68 between 2016 and 2031 (the planning period adopted by the FMNP), with even these figures being seen as “the starting-point”.

45. KPPC therefore conclude that the housing need figure should be increased to not less than 68 dwellings. I comment on this argument shortly, but will first summarise their related objections to the site allocations process:

- there is no reasoned justification for the decision to restrict development to land to the west of the A350 (Policy FM17), either in terms of environmental impact or on highway safety grounds. As far as the first of these is concerned, “*it is the firm opinion of our client that (the) assessment process has not been fairly or objectively undertaken, and unreasonably penalizes site 12 so as to determine that it is unsuited to development due to the proximity of the site to properties which we understand are owned by members of the working group*”.....”*our client does not consider that the Neighbourhood Plan has been positively prepared in a transparent manner without personal or political bias*. The results of the site assessment process are thus considered to have been “predetermined”;
- the process itself contains “significant inconsistencies” as between the various options, which has led to site 12 being unfairly scored much less well than others on six of the seven criteria adopted. Had the exercise been carried out properly, the benefits of this site, especially in terms of its deliverability, would have been clear;
- as for the highway safety point, Dorset County Council as Highways Authority has stated that there is no justification for a new crossing facility in the village<sup>7</sup>.

46. As a result, the consultants consider that “*the Neighbourhood Plan, in its current form, is fundamentally unsound and should not be pursued without significant review and amendment*”.

47. I do not accept this analysis, for the following principal reasons:

- Firstly, despite their strong criticisms of this aspect of the Plan, the objectors do not anywhere assert a failure to comply with Basic Condition (e) (the requirement that the Plan must be in general conformity with the strategic policies in the development plan for

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<sup>7</sup> My understanding here is that this is a result of contact between the parties – I am not aware of the County Council’s having made relevant representations in relation to the preparation of the Neighbourhood Plan

the local area), and I am satisfied that there would be no basis for such a conclusion. There is nothing in national policy or practice guidance which requires a neighbourhood plan to anticipate the outcome of future reviews of the evidence base underpinning local plans. The NDLP was only recently adopted; while it is true that there is acceptance of the need for an early review, especially given the 5-year land supply position, this does not of itself provide any justification for holding up the progress of the FMNP. The Plan fully accepts the need for it to take its “fair share” of growth, as it was calculated for the purposes of the Local Plan, and makes appropriate provision in response.

- I have noted the advice at paragraph 40 of the PPG<sup>8</sup>, to the effect that: *“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 .....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....”*. I consider that, so far as housing need is concerned, these requirements are met.
- In particular, the last point is satisfied by the recognition within the Plan that reviews are under way in North Dorset, and that the Parish will need to play its part in continuing to plan positively for the future. In addition, and in any event, planning applications will be determined having regard to all material considerations, with the latest evidence of housing need being one important example. The issue of the most appropriate methodology for calculating this would be relevant when the Local Plan is rolled forward; and when it is adopted, it would take precedence over the current FMNP in the event of any conflict. I also note that NDDC raise no objection to the Plan in terms of general conformity with the Local Plan’s provisions in relation to the scale of housing need.
- The agents do not claim that the way the site selection process was handled causes any difficulties in relation to satisfying the basic conditions, and I do not see that a case could be made to the contrary. I note that PPG paragraph 042<sup>9</sup> states: *“A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria”*, and it is clear to me that that requirement has been met. I note in any event that the criticisms do not extend to the basic methodology adopted (which seems to me to be both comprehensive and rational<sup>10</sup>), but are based on the claim that the evaluations contain gross inconsistencies. The agents’ representations include considerable detail in order to support this view, aimed at reinforcing the conclusion that site 12 is no worse (and in some respects is actually better) than others, including the two which were finally selected. It is, however, not within my remit as an Examiner to reach any conclusions of my own on the judgments reached.
- In their representations, KPPC variously interpret Policy FM17 as involving a “presumption against” development east of the A350, or as saying it would be “unacceptable as a matter of principle” (page 19), or “fundamentally unacceptable” (page 21). These seem to me significant over-statements: the policy wording does not seek to rule out development

<sup>8</sup> Reference ID: 41-040-20160211

<sup>9</sup> Reference ID: 41-042-20170728

<sup>10</sup> I note here that the objectors only make reference to the table at Appendix 2 to the Plan: it is not clear from this whether or not they have seen the SEA results (which have been published in full) of which the table is a summary, and therefore are aware of the details of the approach taken.

east of the A350, but instead requires building to be “focused” on sites to the west of the road. Setting aside the specific issue of the way the site assessment process was carried out, it is clearly within the intention and remit of neighbourhood plans that they should be free to determine matters of this kind, so long as they satisfy the basic conditions and meet all other legal requirements.

- Finally, suggestions of impropriety associated with the site selection process appear several times in the agents’ comments. Making accusations of this kind in a publicly-available document is a very serious matter, clearly outside my brief, and I make no further comment on them.
48. The objections from Brimble Lea and Partners cover very similar ground to those of KPPC in that they consider the site assessment exercise flawed (to the extent that it is vulnerable to a legal challenge) and, as a result, that sites 10.2 and 10.3 (known as Middle Farm Dutch Barn and Middle Farm Paddock) have been inappropriately ranked. They also object to the policy of guiding development to land to the west of the A350. On these two points, therefore, my responses to the KPPC objections apply in equal measure.
49. More generally, this objection includes the observations that “it is entirely inappropriate to include a presumption against development within a neighbourhood plan policy. This runs directly counter to the NPPF” which (later in the representation) is said to contain a “presumption in favour of development”. This is a mis-reading of NPPF paragraph 14 (which refers to a presumption in favour of *sustainable* development, not development per se). I see nothing in national policy or practice guidance which prevents neighbourhood plans seeking to guide development to those locations which best reflect local priorities from clearly signalling that some sites would be less appropriate than others in those terms – indeed, that can be seen as a logical corollary of the more positively-expressed policy and merely adds to the level of certainty as to the Plan’s stance (itself a national planning expectation of development plans).
50. Chapman Lily Planning Ltd, on behalf of Pennyfarthing Homes Ltd., make some detailed suggestions in relation to the wording of Policies FM8, FM16 and FM19, and I will deal with them under the relevant headings.
51. Given the above analysis, and subject to some detailed comments I make under Policy FM17 itself, ***I recommend that no changes be made to the Plan arising from the critiques either of the basis of the housing land requirement calculations or of the intention to focus new built development on sites that lie to the west of the A350.***

## The policies

### Policy FM1: Local green spaces

52. This policy relates to 19 parcels of land which the Plan seeks to designate as Local Green Spaces. Paragraph 2.4 says that many of these were identified as “Important Open and Wooded Areas” in the 2003 Local Plan, and the FMNP has revisited the matter in the light of NPPF paragraph 76: “*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*”. Paragraph 77 of the NPPF goes on to say that the Local Green Space (LGS)

designation will not be appropriate for most green areas or open space, and should only be used where three criteria are met, namely:

- *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), tranquility or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.*

53. There is a brief comment in Table 2 of the Plan about why each of the 19 sites is considered important in these terms. This clearly is a matter of judgement; for their part, NDDC consider that some of them (two examples are given in their representations) may fall short of the NPPF tests. I inspected all of them on my visit to the area, and it seemed to me that there was good evidence that the first and third of the three criteria are met by each of the 19 sites. Some of them are extremely small (such as no 15 and some green highway verges) and highly unlikely to be suitable for any form of development – but that is not reason in itself for denying them the protection sought.

54. There is no prescribed method of satisfying the second criterion, beyond considering the results of the pre-submission consultation process. I have noted that this involved a re-consideration of the possible LGS sites, the full details of which are available online as supporting material (Document 14: “Local Green Spaces, criteria and assessment sheets”). I am satisfied from this that the assessments carried out are in line with the intention of the NPPF requirements (and reflect Local Plan policy 15) and ***I therefore make no recommendation regarding the list of sites identified in Policy FM1.***

55. NDDC also suggest that the wording of the policy be amended to reflect more closely that used in the NPPF. This seems to me a sensible point, since any unnecessary differences of interpretation between the two formulations might lead to uncertainty. ***I recommend that an opening phrase be added to the second sentence of Policy FM1 so that it reads: “Other than in very special circumstances, no development may take place which would harm the enjoyment of these spaces or would undermine their importance”.***

## Policy FM2: Local wildlife corridors and protected species

56. To summarise it, this policy requires new development to have regard to certain wildlife corridors and sites of nature conservation interest, identified on Map 4, including seeking net gains in biodiversity where possible. Where there may be an adverse impact, a Biodiversity Mitigation Plan would need to be submitted with the planning application. This approach is clearly supported by the NPPF at paragraph 117. The Basic Conditions Statement says that the selection of the sites is the result of local knowledge and data from the Dorset Environmental Records Centre (a link to which is provided in Appendix 1 to the Plan), as well as drawing on the Dorset Biodiversity Protocol, supported by both Natural England and Dorset County Council<sup>11</sup>.
57. Natural England suggest the use of the updated term “Biodiversity Mitigation and Enhancement Plan”. They and NDDC both point out that the Biodiversity Protocol states that development proposals on sites over 1.0ha, or which are likely to give rise to an adverse impact on biodiversity,

<sup>11</sup> I have been made aware of a representation in connection with this policy made by Mr Robert de Ferry Foster, roughly a month after the advertised closing date for submissions. Given this, I have concluded that there is no clear reason why I should take the representation into account in preparing my report.

should be accompanied by a BMEP, and I agree that this would be in the interests of clarity. ***I therefore recommend that both suggestions be adopted.***

### Policy FM3: Important views

58. Policy FM3 seeks to protect eight public views, the details of which are shown on Map 5 (assisted by some high-quality photographs). These cover views both from and of the village, the wider Parish and the surrounding area, with an emphasis on relationship with the AONB to the east. I was able to see many of these while on my visit to the area and thus to appreciate their significance for myself. The policy presents no difficulties in relation to the basic conditions, ***but I recommend that (as suggested by NDDC) it be slightly re-worded to read: "Any development that would harm an important view of the North Dorset Chalk Escarpment or negatively affect views....".***

### Policy FM4: The setting of the AONB

59. This policy is clearly related to FM3, but goes further by identifying (on Map 5) an area of land between the settlement boundary (see Policy FM18) and the western boundary of the AONB. Within this area, there would be "*a strong presumption against development that fails to conserve and enhance the natural beauty of the AONB. Only in exceptional cases, in which schemes clearly demonstrate an enhancement of the setting of the AONB, will development be allowed*". The Basic Conditions Statement acknowledges that national policy does not contain any specific reference to this issue<sup>12</sup> but (reasonably, in my view) says that it is accepted that AONBs can be adversely affected by inappropriate development within their settings. I have noted that Local Plan Policy 4 explicitly accepts this point.
60. It is clear that the effect of Policy FM4 is to add to the argument for directing new development towards sites to the west of the A350, to which I have already made reference. Ken Parke Planning Consultants (KPPC) consider the presumption against development here to be "completely arbitrary", suggesting that the land is no different from many other areas around the village in terms of its visual relationship with the AONB. I have already responded to their general criticism of the way the site assessment process was carried out: I would nevertheless say that it does not seem to me to be wholly irrational to consider the area hard up against both the village and the designated AONB as being particularly sensitive.
61. In any event, I do not accept the suggestion that the policy ".....seeks to place a presumption against development in this area...[which would] be inconsistent with national policy...". Policy FM4 does not seek to rule out development, but to prevent development which is *harmful* in the terms set out. This is inconsistent with neither national nor local policy, nor does it necessarily suggest a failure of the Plan to acknowledge a general presumption in favour of sustainable development. I therefore do not agree that it is necessary to delete Policy FM4 on the grounds that it is "unsound" (which is not the relevant test), together with Map 5. Nor do I accept the argument that any re-wording of the policy would be of little value, on the grounds that it would simply duplicate Local Plan Policy 4. This states that "*proposals which would harm the natural beauty of the AONBs will not be permitted unless it is clearly in the public interest to do so*": Policy FM4, appropriately for a neighbourhood plan, provides more detail in spatial terms, and

<sup>12</sup> (although I note that NPPF paragraph 113 requires planning authorities to set policies against which proposals on or affecting protected landscape areas will be judged).

therefore more certainty for development management.

62. I do, however, accept KPPC's objection to the policy's blanket requirement for an *enhancement* of the AONB's setting in those cases where some development is considered acceptable in principle: I agree with them that this goes significantly beyond even what is required within the protected area itself (NPPF paragraph 116 and Local Plan Policy 4). I also consider that NDDC's suggestion that the wording of the policy should align more closely with that of Local Plan Policy 4 is helpful in that it would reduce the scope for uncertainty of interpretation.
63. ***I therefore recommend that Policy FM4 be modified in order to read: "Proposals for development within the visually sensitive area skirting the eastern extent of the village (shown on Map 5 below) which would harm the setting or natural beauty of the AONB will not be permitted unless it is clearly in the public interest to do so". I further recommend that the second sentence of the policy be deleted.***

#### **Policy FM5: Local landscape features**

64. Policy FM5 requires development to protect and reinforce the local landscape character and its typical features (with several examples being given). It has attracted an objection from KPPC, principally on the basis that it is "not in line" with Local Plan Policy 4 in that it does not allow for the flexibility in design which the wording of Local Plan Policy 4 does. The objection accepts that NPPF paragraph 60 recognises that is proper for planning policies to reinforce local distinctiveness.
65. I see little in the wording of Policy FM5 (including the reference to rural lanes such as Mill Street, a particular concern of the objectors) which suggests that it is over-prescriptive. Nevertheless, I recommend that a degree of flexibility of interpretation would better accord with the general tenor of national policy, ***and I therefore recommend that the opening sentence of the policy should be re-worded to read: "Wherever appropriate, development should protect, and should reinforce, the local landscape character.....".***

#### **Policy FM6: Dark skies**

66. I noted from my visit to the Parish that there are no street lights, an arrangement which the great majority of the local community have no wish to change. This policy seeks to conserve and enhance the intrinsic quality of the dark night skies in the area: I consider that it satisfies the basic conditions.

#### **Policy FM7: The Conservation Area and locally important features**

67. Following advice from Historic England, a Conservation Area Appraisal was carried out by local volunteers, using HE's guidelines. This was adopted in 2018, and Policy FM7 provides that it will be used as a key tool in determining the impact of development proposals within the designated Conservation Area. In addition, the policy lists a number of features (and groups of features) which are felt to contribute to the character of the area as "undesignated assets" worthy of protection commensurate with their significance. This includes a number of unlisted buildings which are identified in the Appraisal document. The policy approach is consistent with that set out in NPPF paragraph 135, as well as Local Plan Policy 5, and I consider that it satisfies the basic conditions.

## Policy FM8: Development layout

68. This policy principally seeks to ensure that new development respects the particular characteristics of the village, for example by recognising the importance of the patterns of its lanes and the variety of plot sizes and shapes, and the close inter-relationship between the public and private realms, broken up by a patchwork of open spaces and green areas. This broad objective is clearly supported by NPPF paragraphs 57 and 58, and is the subject of Local Plan paragraphs 10.59 and 10.60.
69. Policy FM8 includes references to types of layout, seeking also to establish specific minimum separation distances, garden depths and levels of parking provision. Explicit guidance on the most appropriate density for new dwellings within the main part of the village (given as between 10.8 and 15.5 dph) is found at supporting paragraph 3.7, but this is clearly intended to be cross-referenced to the policy itself. At the same time, some elements of the policy are expressed in a way which renders their interpretation and implementation uncertain (for example: “Layouts will be required to provide sufficient amenity space for modern standards”).
70. I agree with KPPC’s general critique of the degree of prescription involved in this policy, much of which is shared by NDDC and Chapman Lily. An over-prescriptive approach to policy-making is discouraged by paragraphs 59 and 60 of the NPPF:

*“59. Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.*

*60. Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.”*

71. While these requirements are not specifically aimed at the approach to be taken in the preparation of neighbourhood plans, they are clearly equally applicable, given the relevance of such plans to the development management process. It also seems to me that the density requirement would have the potential of making it more difficult for the FMNP to achieve its stated objective in relation to the provision of a wide range of housing types (which itself is one of the subjects of NPPF paragraph 50).
72. I consider that Policy FM8 as it stands pays insufficient regard to NPPF paragraphs 59 and 60. The BCS suggests that the use of the word “should” [*should* be provided etc, rather than *will* be] is an indication that the policy allows for “the possibility of exceptions” being accepted in some cases, but this seems to me to be a nuanced proviso that many users of the Plan might fail to appreciate.
73. I have concluded that the policy should be altered by:
  - generally reducing the degree of prescription;
  - removing the reference to “open-market housing in new greenfield development”, in the absence of any explanation or justification for this distinction in the supporting material;
  - bringing the importance of ensuring a successful transition between the main built-up

- area of the village and the open countryside into the policy itself (ie moving it from paragraph 3.6 of the Plan, or perhaps repeating it there);
- removing the reference to the need for layouts to provide “amenity space for modern standards” and “communal turning areas” because of their vagueness (the latter is also a potentially onerous requirement which would need much greater clarity and justification);
  - the recognition that it will not always be appropriate to distribute affordable housing elements throughout a layout (this being a specific concern of KPPC);
  - including a reference to the desirability of ensuring that affordable housing is designed in such a way as to be indistinguishable from general housing (this being a requirement of Local Plan Policy 8)
  - bringing the reference to parking requirements into closer alignment with Local Plan Policy 23, which includes a degree of flexibility in order to be able to respond to site-specific conditions. This can be done by including the word “normally” in the wording.

74. ***I therefore recommend that Policy FM8 be re-worded along the following lines:***

*“The layout of new development should generally reflect the pattern of existing village lanes, with a variety of plot sizes, shapes and variation in building lines, with opportunities for social interaction created by open spaces, verges and front doors and windows overlooking the street. The design, layout and orientation should be appropriate to the character of the surrounding area and should avoid adverse impacts of overlooking or loss of privacy to neighbouring properties. Particular regard should be had to the layout and landscaping of schemes proposed within the sensitive transitional areas lying between the village and the open countryside.”*

*Off-street car-parking will normally be required for two vehicles (or one plus a garage), together with adequate access for service vehicles.*

*The precise location of affordable housing within a development will be determined having regard both to overall design and layout considerations (which must include the objective of ensuring that it is indistinguishable from other housing) and to the reasonable requirements of efficient management and maintenance”.*

75. I should add that a requirement for all planning applications to be accompanied by a design and access statement (Mrs Scott Walby) would not be consistent with the statutory provisions for such documentation<sup>13</sup>.

#### Policy FM9: Building design

76. This policy provides guidance on the types and styles of new housing which would be considered appropriate in principle (and those which would not). It is cross-referenced to a summary in paragraphs 3.8 to 3.15 both of residents’ appreciation of the variety of built form to be found within the Parish and of the prevailing characteristics of these buildings in terms of scale, mass and materials. Table 3 lists the principal features following a local audit.
77. All planning applications for new development within the conservation area (which covers all of the village itself, together with significant areas of open land, including those allocated for

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<sup>13</sup> See the Town and Country Planning (Development Management Procedure) Order

development under Policies FM17-20) would automatically need to be judged against the requirements of s72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that “special attention shall be paid to the desirability of preserving or enhancing the character or appearance” of conservation areas. This therefore already constitutes a very important material consideration in the process of assessing the merits of individual schemes. Local Plan Policy 24 contains a number of broad design considerations, not restricted to development within conservation areas, which would also be material to the consideration of applications within the FMNP area.

78. It is entirely appropriate that the Plan should seek to add detail to this broader context but, as with Policy FM8, this must avoid an unreasonable degree of prescription. KPPC object to several aspects of the policy on that account, including the reference to new buildings being restricted to one or two storeys in height (with dormers counting as a storey); what they see as a constraint on materials and detailing (Table 3); and the intention to remove permitted development rights in relation to second storey loft conversions or dormer windows. I have considerable sympathy with this assessment; in particular, I agree that a neighbourhood plan should not seek to remove permitted development rights in a “blanket” fashion, since any case for setting them aside needs to be carefully justified in the context of individual sites and circumstances, as part of the normal development management process.
79. The policy says that “buildings that are identifiably urban, characterless or “executive” in style will not be allowed”. This phrase is much too open to personal interpretation to be of any practical value, and therefore fails to meet the requirements of clarity and precision (PPG paragraph 041). The statement that materials and detailing “should be in accordance with Sections 3.8 to 3.15” also lacks clarity, although this can be dealt with by a minor change of wording.
80. With these comments in mind, I recommend the following changes to Policy FM9:
  - ***the deletion of the first sentence (the reference to building heights)***
  - ***the deletion of the third sentence (the reference to urban etc style);***
  - ***the re-wording of the fourth sentence to read: “Materials and detailing should have regard to the vernacular features described in the preamble to this policy, including those described in Table 3”; and***
  - ***the deletion of the second paragraph (the reference to permitted development rights).***

#### Policy FM10: Creating safer roads and pedestrian routes

81. This policy sets out a general requirement to protect and, wherever possible, improve the network of safe pedestrian and cycle routes connecting the various parts of the village, Parish and the wider area. There are also some “common-sense” provisions relating to highway safety. It clearly finds support in national policy (for example, at NPPF paragraph 35) and satisfies the basic conditions.
82. Mrs Scott Walby criticises Map 8, which accompanies the policy and shows existing and proposed pedestrian routes within and around the village, by saying that several permissive footpaths are shown as if they were public, and she doubts whether the FMNP can be the vehicle for establishing statutory rights where they do not currently exist. I am in no position to comment on the accuracy of Mrs Scott Walby’s assertions, and in any event, this would be outside my remit as Examiner. I would, however, point out that Map 8 makes no distinction between “public” or other routes, referring instead simply to “footpaths” and “routes” as physical entities, particularly

drawing attention to those routes where improvement is needed. This is clearly an appropriate matter for the Plan to address.

83. I can well understand from my visit residents' concern about the intimate relationship between the village and the A350, which bisects it. As paragraph 4.4 of the Plan puts it:

*"The concerns over traffic volumes and speed, both on the A350 and through the village, have been known for some time.... The A350 through Fontmell Magna has no pavement along most of its 30 mph limit, forcing pedestrians onto the carriageway. It is far too narrow for the volume of lorries that pass through the village in both directions, and the road winds through the village limiting drivers' forward sight lines thus making it difficult for pedestrians hoping to cross the road to gauge the presence and speed of on-coming vehicles."*

84. However, the Plan correctly accepts that this matter, while related to land use, is more properly addressed as a traffic management issue, which is set out as Project P1, an adjunct to Policy FM10. This records the ongoing work the Parish Council has been carrying out in conjunction with Dorset County Council and others to improve matters in the village, with a particular emphasis on dealing with the impact of the A350.

#### **Policy FM11: Sustainable drainage**

85. Policy FM11 reflects local knowledge of the various sources of flood risk in the area by requiring a site-specific and proportionate flood risk assessment to accompany all development proposals. It includes a presumption against sites with "a significant prevailing risk" (on-site or off-site), after any proposed mitigation measures have been taken into account, and other detailed provisions. The BCS notes that, due to the complexity of the topography and underlying substrata of Fontmell Magna and the surrounding area, the policy goes beyond the Local Plan requirements in relation to soakaways and other sustainable drainage systems. Paragraph 5.5 of the Plan itself makes a similar point, noting that the Local Plan reference is only to schemes involving 10 or more dwellings, whereas development in the Neighbourhood Plan area is likely to be generally smaller and more incremental.
86. There are no difficulties here in relation to the basic conditions, although NDDC consider that the policy is more onerous when compared with national guidance on dealing with flood risk (set out in the PPG). They suggest this could be dealt with straightforwardly by restricting its application to "... all development *that would result in increased surface water run-off*". This seems to me to be a sensible suggestion, in the interests of clarity, ***and I recommend that it be adopted.***

#### **Policy FM12: Development impacting on the sewage treatment works**

87. There is a small sewage works alongside Fontmell Brook, towards the north-western edge of the village. Policy FM12/Map 9 shows an "odour consultation zone" (which incorporates most of the predominantly single-storey dwellings on West View, Elbury View and Orchard Close), within which new housing will not be permitted unless there is clear evidence that potential problems of smells and emissions can be handled satisfactorily. The policy also seeks to protect any future upgrading of the sewage works; and any major new development would be required to demonstrate that any necessary upgrades to the facility would be in place before dwellings are occupied.

88. These provisions raise no concerns in relation to the basic conditions. NDDC suggest that the phrase “unless otherwise agreed by Wessex Water” be included in the last element of the policy. Since this already refers to “necessary” upgrades, ***I recommend instead that it be slightly reworded thus: “Major development will be required to demonstrate that any necessary upgrades to the sewage treatment works (as advised by Wessex Water) will be in place prior to the site’s occupation”.***

#### Policy FM13: Important community facilities

89. This is a straightforward policy designed to protect and, where possible, enlarge the range of community facilities within the Parish (excluding open spaces given protection under Policy FM1 and non-land use infrastructure such as the local bus services and broadband/mobile coverage, the last being the subject of Project 2). Such an objective is clearly consistent with national and local planning policies such as NPPF at paragraph 28 and Local Plan Policy 14. NDDC consider it appropriate to highlight the importance of accessibility to any new facilities, but I see no need to recommend any change to the policy as it stands.

#### Policy FM13A: Social infrastructure

90. Policy FM13A is effectively a list of priorities for the allocation of any s106 contributions or Community Infrastructure Levy (CIL) monies which might become available as a result of the grant of new planning permissions. The BCS states that the policy has been added to the Plan at the suggestion of NDDC; however, NDDC ask for the submission version to be amended in order to allow other reasonable requirements to be identified beyond those listed, and to reflect the fact that their current policy is not to draw a distinction between affordable and other housing for these purposes.
91. These seem to me to be sensible suggestions. ***I therefore recommend that Policy FM13A be amended by:***
- ***deleting the last phrase of the first paragraph (“...in respect of the following identified requirements”) and inserting a new sentence at this point, to read: “The facilities listed below reflect the need for improvements to the pedestrian and cycle network and recreation facilities, but other projects will be considered on their merits as appropriate”; and***
  - ***removing the reference to affordable housing in the last sentence of the policy.***
92. NDDC also ask for the removal of the reference in paragraph 6.12 to the possibility of the equivalent of 25% of the CIL being used as a starting point for negotiations (which would apply once the FMNP has been “made”). However, paragraph 6.11 acknowledges the fact that no CIL arrangements have yet been adopted by NDDC, and notes that, in the meantime, s106 obligations would continue to be the mechanism for achieving these objectives. For this reason, I see no clear need to remove the reference at paragraph 6.12.

## Policy FM14: Facilitating home working

93. This policy reflects what is seen as one of the main options for new employment in the area, set out in paragraph 7.4, which itself gives effect to NPPF paragraph 28 and is broadly supported by Local Plan Policy 11. It states that the extension of existing homes and the provision of outbuildings to support expanded home working may be acceptable so long as certain criteria are met. NDDC have some concerns about the policy, particularly in relation to the information requirements which would be needed to demonstrate compliance. Subject to some minor rewording, this does not seem to me to be a major issue, the criteria involved being “mainstream” ones in development management terms, and matters which are likely to be covered during the normal process of determining planning applications.
94. In line with NDDC’s comments, and for clarity, *I recommend that in the second bullet-point, the word “incidental” be replaced with “ancillary” (to the primary use); and in the third bullet-point that the phrase “the business use” be replaced by “the development”.*

## Policy FM15: Supporting existing businesses

95. The object of this policy is to seek to protect the village shop and pub by requiring applications for new business uses falling within the “A” Use Class group (which includes shops, financial and professional services, and all food and drink uses) to avoid having any significant adverse impact on their vitality and viability. How this might be done is unclear; but in any event, as NDDC point out, such a stance cannot be supported in principle: while it is acceptable for general steps to be taken to help to sustain rural enterprises of this kind (including the kinds of direct action set out Project 4), it has long been accepted that it is not the purpose of the planning system to inhibit competition or to protect individual business interests. For this reason, *I recommend that Policy FM15 be deleted.*

## Policy FM16: Housing types

96. Policy FM16 reflects the findings of the local housing needs assessment which informed the preparation of the Plan; and Project 5 commits the Parish Council, working with local residents and NDDC, to review it over the Plan period. Paragraphs 8.5 to 8.10 set out the demographic and economic context for the policy itself in some detail, the key issues being:
  - the fact that the largest group of residents are aged over 65;
  - a significant local interest in “downsizing” or in self-build;
  - the high local prices of homes; and
  - a preponderance of larger properties, which means less need for four-bedroom houses.
97. The policy requires affordable housing (following guidelines set out in the Local Plan) to consist of 60% one and two-bedroom homes, and 40% three-bedroom or larger, allocated first to households with a connection to the Parish before being cascaded down to a connection with adjoining parishes, and then the rest of North Dorset. New open-market housing should predominantly be of one, two and “some” three bedroom properties suitable for young working people and families, and capable of adaptation to meet their changing needs, as well as being suitable for other residents wishing to downsize.

98. Chapman Lily support the general objectives here, but wish to see the removal of the word “some” in relation to three-bedroom open-market houses – in effect introducing parity as between the three sizes, as opposed to implying that a priority should be given to the smaller properties. Their reason for requesting this change is related to their clients’ interests in site 20 (south of Home Farm - see FMP19 below) and its viability. I have seen no detailed evidence to support either view of the matter; but given the conclusions of the local housing needs assessment, I think it reasonable to leave the wording as it is. Clearly, any specific concerns about the viability of site 20 can be addressed by NDDC at the appropriate time, and it is clear that the existing wording would not preclude the possibility of three-bedroom houses being included in the mix if thought desirable.

#### Policy FM17: Spatial strategy for new development

99. This policy, and the background to it, has been dealt with earlier on in my report, under the heading *The Neighbourhood Plan’s approach to the identification of sites for housing*. However, NDDC point out that the reference to the Plan’s making provision for 30 to 35 new homes to 2031 is at odds with the provisions of policies FM19 and FM20: these represent the two allocated sites which, taken together, allow for a maximum of 40 dwellings. I also note that paragraph 9.12 refers to the expected yield of the two sites to be “at least” 30 to 35 homes. This inconsistency should be removed. NDDC also suggest that more reference is made to the supporting background to the policy, but I consider that this is adequately dealt with in the Plan as a whole.
100. *I recommend that the first phrase of Policy FM17 be amended to read: “This Plan makes provision for a maximum of 40 new homes to 2031.....”. If this recommendation is accepted, other references in the Plan to the 30-35 range should be revised accordingly.*
101. For completeness, I note that two plots which were assessed as part of the site allocation process (numbers 1 and 24, land west of West View and adjoining the Village Hall respectively) are identified as potential rural affordable housing “Exception Sites”, should the need arise during the Plan period. The reference to this point is at paragraph 9.33 – 9.36; the matter is not the subject of a formal policy, and there are no issues as far as the basic conditions are concerned.

#### Policy FM18: Settlement boundary

102. Policy FM18, together with Map 11, simply seeks to update the settlement boundary for Fontmell Magna village as it was originally shown in the 2003 version of the Local Plan. It contains four elements: three of these have the effect of including within the boundary small parcels of land which have been developed, or which better reflect the settlement edge “on the ground”, while the fourth excludes an area at the extreme western end of the village (on the grounds that to keep it within the boundary might be interpreted as suggesting that its development would be acceptable in principle). Neither of these proposals has any implications for satisfying the basic conditions.
103. However, a more significant issue arises from the decision not to include within the updated settlement boundary the two sites (20 and 22) which the FMNP allocates for housing. I agree with the objection made by KPPC to the effect that to exclude them in case they do not come to fruition is not logical and would give rise to a conflict with the Local Plan (which would see the

sites as being within the countryside for planning purposes). Such a conflict would create unnecessary confusion in my view. For this reason, ***I recommend that the reference to this issue in paragraph 9.10 be deleted, and Map amended to include sites 20 and 22 within the new settlement boundary.***

**Policy FM19: Land south of Home Farm (Site 20)**

**Policy FM20: Land at Blandfords Farm Barn (Site 22)**

104. These policies provide more detail about the two sites which the Plan proposes to allocate for housing. They are at present open areas in agricultural use, and are located close to the centre of the village, in the south-western quadrant. The Plan contains a “pros and cons” table for each site, together with some broad guidelines designed to achieve the best development outcomes in social, access and environmental terms, reflecting the other policies in the Plan. Site 20 is shown as being suitable for 25 to 30 dwellings, and site 22 for between five and ten units, specifically identified in the policy as being for self/custom-build or affordable housing. Site 20 also contains a small provision for employment and/or community facilities.
105. Chapman Lily suggest the need for greater flexibility in relation to site 20 by deleting the phrase “The total number of dwellings should not exceed 30 units....” and substituting “The total number of dwellings should be at least 30 units....”. The reason given for this is to ensure the viability of the site for development. I have been given no reason to believe that this is an issue in real terms – and in any event, for me to come to a judgement on the matter would be outside my terms of reference. Any practical problems of this kind should be addressed at the planning application stage, where viability could be a material consideration.
106. NDDC have pointed out that both sites lie within the conservation area: ***I recommend that this is made clear in the supporting material.*** They also suggest that the reference to housing types in relation to site 22 would result in a failure adequately to restrict the proposals to affordable or self-build: I am not clear why this observation is made, but would anticipate that the terms of policies FM8 and FM9 (subject to my recommended revisions) together with FM16 provide the necessary clarity.
107. I have noted that Historic England have reservations about the judgements reached in the SEA exercise as to the impacts of these two allocations on heritage assets (said to be neutral). Their representations do not, in my view, suggest any failure of the Plan to satisfy the basic conditions or other statutory requirements and should be seen in the light of my general conclusions about the site assessment process.

### **Conclusions on the basic conditions**

108. I am satisfied that the Fontmell Magna Neighbourhood Plan makes appropriate provision for sustainable development. I conclude that in this and in all other material respects, subject to my recommended modifications, it has appropriate regard to national policy. Similarly, and again subject to my recommended modifications, I conclude that the Plan is in general conformity with the strategic policies in the development plan for the local area. There is no evidence before me to suggest that the Plan is not compatible with EU obligations, including human rights requirements.

## **Formal recommendation**

109. I have concluded that, provided that the recommendations set out above are followed, the Fontmell Magna Neighbourhood Plan would meet the basic conditions, and I therefore recommend that, as modified, it should proceed to a referendum. Finally, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan Area, but I have been given no reason to think this is necessary.

**David Kaiserman**

David Kaiserman BA DipTP MRTPI  
Independent Examiner

10 August 2018

## APPENDIX 1 – SUMMARY TABLE OF RECOMMENDATIONS

Examiner's report paragraph	NP reference	Recommendation
33	general	<ul style="list-style-type: none"> <li>incorporate Plan period within formal title</li> </ul>
55	Policy FM1	<ul style="list-style-type: none"> <li>minor re-wording</li> </ul>
57	Policy FM2	<ul style="list-style-type: none"> <li>minor re-wording</li> </ul>
58	Policy FM3	<ul style="list-style-type: none"> <li>minor re-wording</li> </ul>
63	Policy FM4	<ul style="list-style-type: none"> <li>remove requirement for development to <i>enhance</i> the setting of the AONB</li> <li>delete second sentence</li> </ul>
65	Policy FM5	<ul style="list-style-type: none"> <li>minor re-wording</li> </ul>
74	Policy FM8	<ul style="list-style-type: none"> <li>substantial re-wording, to reflect objectives set out in para 73</li> </ul>
80	Policy FM9	<ul style="list-style-type: none"> <li>substantial re-wording to reduce extent of prescription and remove reference to permitted development rights</li> </ul>
86	Policy FM11	<ul style="list-style-type: none"> <li>minor re-wording</li> </ul>
88	Policy FM12	<ul style="list-style-type: none"> <li>minor re-wording</li> </ul>
91	Policy FM13A	<ul style="list-style-type: none"> <li>minor re-wording of first sentence</li> <li>removal of reference to affordable housing in last sentence</li> </ul>
94	Policy FM14	<ul style="list-style-type: none"> <li>minor re-wording</li> </ul>
95	Policy FM15	<ul style="list-style-type: none"> <li>delete policy</li> </ul>
100	Policy FM17	<ul style="list-style-type: none"> <li>clarify housing numbers to 2031</li> </ul>
103	Policy FM18	<ul style="list-style-type: none"> <li>align settlement boundary to take account of allocations of sites 20 and 22</li> </ul>
106	Text supporting Policies FM19, FM20	<ul style="list-style-type: none"> <li>clarify that both sites lie within the Conservation Area</li> </ul>