

Silverton Parish Neighbourhood Plan 2013-2033

Initial Comments of the Independent Examiner

Prepared by
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Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the Silverton Parish Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents which I have been sent. I visited the parish on Tuesday 25th March 2023. It is a 30-minute drive from my home and I was able to enjoy the village and the surrounding countryside in pleasant spring sunshine.
2. At this stage, I cannot confirm whether the examination of this Plan will proceed by the consideration of the written material only. I have to reserve the right to call for a public hearing, if I consider that it will assist my examination, but my decision will depend to a large extent on the responses I receive to this note. Once I receive responses from both the Parish Council and Mid Devon District Council, I will confirm my decision as to whether a hearing will be required.
3. Set out in the following paragraphs are a number of questions or requests for clarification or comments which are directed to the Parish Council or in some cases from Mid Devon District Council. Such requests are quite normal during the examination process.

Regulation 16 Comments

4. I would, firstly, like to offer the Parish Council the opportunity to comment on the representations that were submitted as part of the Regulation 16 consultation. I am not expecting a response in respect of every point, just those that the Parish Council feels it wishes to respond to. I would however be particularly interested in the Parish Council's response to the District Councils comments in terms of general conformity of a number of policies within the Local Plan Review.

Commented [OK1]: See document 'Responses to Consultation Reg 16 24.5.23' Consultees attached on email to you dated 2.6.23.

Start Date of the Plan

5. Can the Parish Council explain how it arrived at a start date of 2013, which is now almost a decade ago. I appreciate that it coincides with the Local Plan Review, but what is the value in using this historic start date? Does the District Council have a view on whether it would be better to have a more current start date?

Commented [OK2]: In line with the current adopted MDDC Local Plan dates. They are now in process of reviewing this document and it is dated 2023-2043.

Mid Devon Local Plan Review

6. With regard to the adopted Local Plan Review, can the District Council identify which of its policies are to be considered strategic policies for the purpose of the basic conditions test. Is it just those set out in the Development Strategy and Strategic Policies Chapter of the document or are there any other policies that it considered should be treated as "strategic"?

Strategic Environmental Assessment

7. Can Mid Devon clarify whether the SEA was formally submitted by the Parish Council under the provisions of Regulation 15, as it was amended by The Neighbourhood Planning (General) (Amendment) Regulations 2015 and was the Environment Report advertised as a submission document at Regulation 16 consultation stage. I could only see reference to the screening opinion on the Council's website.
8. Can the Parish Council also clarify whether the SEA was the subject of public consultation as required by Regulation 13 of the Assessment of Plans and Programmes Regulations 2005?

Commented [OK3]: Not a specific consultation (i.e. Reg 13) but it has been available at Reg 14 Consultation, up on the website and available to anyone who wants to have a look at the paper version

9. I am particularly anxious to understand whether Historic England have had an opportunity to comment on the latest heritage conclusions within the document.

Commented [OK4]: MDDC say a request was sent to Historic England but they had no response from them.

Policy EN02: Rights of Way

10. I would ask the Parish Council to indicate whether proposals need to meet each of the 4 requirements or should they be considered as alternatives. i.e. should there be inserted "and" or "or" at the end of i) to iii).

Commented [OK5]: We will add 'and' after each item as suggested.

Policy EN03: Local Green Space

11. Local Green Space designation is the highest level of protection available to green spaces. I would ask the Parish Council to expand on how it has approached the designation of LGS, how were the open spaces selected as being "demonstrably special to the local community and hold particular local significance". In particular, how were the spaces differentiated from the green spaces identified in Policy CS02, which appear to have a lower level of protection.

Commented [OK6]: All green spaces are equally important. CS02 were recreational, whereas EN03 were small areas throughout the village, not necessarily recreation, but we do not want to lose them to parking or housing.

12. Can I ask for more detailed justification why each of the nine spaces hold "a particular local significance."

We will alter the wording on CS02 to conform with EN03.

Policy EN04: Minimising Flood Risk

13. Is it the plan's expectation that development proposals involving changes of use should be expected to incorporate SUDS?

Commented [OK7]: All green spaces are valuable. We will add another paragraph to justify this on the grounds of including wildlife, trees, ancient pond and historic oak tree in the big Rec.

Policy BE01: Local Character and Design Standards

14. Can Mid Devon clarify whether its Local Validation Checklist requires the submission of a Design and Access Statement in respect of all planning applications or does it relate to major housing schemes and development in a Conservation Area as required by the Town and Country Planning (Development Management Procedures) Order 2015?

Commented [OK8]: Propose to revise Policy EN04 to replace "maintenance in order" with "maintenance (or explain why SUDS is inapplicable) in order".

Policy BE02: Local Heritage

15. Again, can Mid Devon confirm which categories of applications are required to submit a Heritage Statement?

16. Is it the expectation of the Parish Council that, say an applicant for development within the housing estate served by Wyndham Road, should be required to demonstrate how their scheme respects heritage assets and enhance the rural character of the area?

Commented [OK9]: We will add the policy BE02, the wording "or explain why this is inapplicable". In the case of Wyndham Road, they would explain that Wyndham Road has no heritage assets and is not rural in nature and has no potential to be made more rural.

Policy HS01: Scale of Housing Development

17. Is it the Parish Council's expectation that small housing development can take place immediately outside of the village envelope, as a matter of policy. This appears to be in conflict with strategic policy S3 of the Mid Devon Local Plan Review and is it recognised that such development cannot be expected to deliver affordable housing? Is it a consequence of the proposed policy, that rural exception sites, which would otherwise be acceptable under the provisions of Policy DM 6 of the Local Plan Review which expects such sites to deliver predominantly affordable housing or low-cost housing, including self-build, will no longer be required on sites adjacent to but outside the settlement boundary?

Commented [OK10]: Yes we do. Small scale sensitive developments (unlike the proposed Silverdale extension development) would be welcomed. There is almost no appropriate land within the envelope that can be used.

Commented [OK11]: Yes. We accept that the parish needs low cost housing and there is nowhere within the envelope where this can be provided. There was a conflict of interest as parishioners wanted small developments, but also wanted affordable housing, e.g. Exe View and Prispfen View which are in exception sites. A Community Land Trust (which could be for small scale housing or for a somewhat larger development) if there was an appetite for this, would solve the lack of affordable housing and still allow small developments of market value housing, but this would also be outside the envelope.

Policy HS02: Meeting Local Housing Need

18. Can the Parish Council advise me whether there is a more up to date Housing Needs Report, other than the one produced by Mid Devon in 2016? Are there plans for a more up to date housing needs assessment to be commissioned to inform how this policy will be implemented over the remainder of the plan period?

Commented [OK12]: We have asked for an updated Housing Survey, but MDDC have not yet organised one.

Policy HS03: The Glebe Housing Development Site

19. Can the Parish Council confirm that reference to *up to 5 dwellings indicated on Map 8*, refers to both the small site opposite Newcourt, which I assume is either a conversion of the existing building or its replacement and then up to 4 new homes on the southern leg of the allocation or is it proposed that the reference to up to 5 units is intended to refer to the latter allocation. The policy refers to *the site* in the singular, when it appears to be two sites within the allocation shown on Map 8.

Commented [OK13]: Being corrected and measurements added.

20. With regard to the northern site, it appears that the policy only covers the footprint of the existing building and I would have assumed that it would have its own curtilage for a garden and parking. Should the Map be amended to enlarge that site to a realistic size, otherwise the implication is that the policy provides for a new residential property surrounded by public open space. I note that the impact of this site does not appear to have been assessed as part of the SEA's assessment, in particular the impact on heritage assets. Can the Parish Council confirm whether AECOM was aware of that small allocation?

Commented [OK14]: We will be excluding the piggery building from Map 8 as this was an error in the original. AECOM were not aware that the piggery was excluded when they wrote their report.

21. It would be helpful for me to understand, in more detail, the landowner's offer that has brought forward this policy. Is the offer exactly on the basis as set out in the policy's justification. The area of land shown in green, is referred to as "potential recreation space and community woodland/ orchard". The policy requirement in vii) is for the provision of an area of public open space of at least 0.5 ha in the Glebe. Is the offer to pass across the ownership of the whole of the area shown in green on Map 8 (apart from any change required by my remarks in the previous paragraph), and can the Parish Council confirm what the hectarage of the residual land is, so I can be certain, that apart from the residential land shown as brown, the remainder of the land is to be public open space, rather than a parcel that equates to 0.5 ha, with some land being retained by the current owner?

22. I am seeking clarification on this issue, as the plan's Key Map (Map 2) shows the whole of the Glebe site as a Housing Site but with "public access" shown for the northern part by the tree symbol but without a precise boundary. I would invite the Parish Council to consider whether its intentions could be shown on the Key Map with greater clarity. Does the Parish Council have a view on whether it would be clearer as to the actual expectations of the policy to propose an allocation for public open space on the green area and housing on the brown areas rather than it be covered by a housing policy. This would remove the policy requirement set out in Policy CS03.

Commented [OK15]: A corrected map has been drafted, is provided with this response and will be included in the next version of the plan.

23. I was somewhat surprised, that in view of the importance attached to the open aspect across the Glebe, in terms of the setting of the Conservation Area and the village, particularly the views across it from the higher ground at the Church, that it

Commented [OK16]: We believe the current approach is the best one because the potential community open space was conditional on the development going ahead. Hence, it is both in the Housing Policy covering the potential development, and in Policy CS03 covering the new community open space.

this green space was not put forward as a local green space. Was that a matter that was considered by the Parish Council?

24. Can the Parish Council confirm whether its rationale in proposing this policy, is that any harm to the Conservation Area and the setting of the Grade 1 listed building, is outweighed by the public benefits of acquiring this area of open space for the village and that, as this is less than substantial harm, this balanced judgement is triggered by paragraph 202 of the National Planning Policy Framework (NPPF)? Can Mid Devon offer its views as to whether it shares the conclusions, set out in the most recent version of the SEA that the level of harm to the heritage assets is of medium significance and does it have any concerns regarding the additional work carried out by AECOM? Does Mid Devon have any concerns regarding the loss of best quality agricultural land which was identified in the SEA as an adverse impact?

Commented [OK17]: We are not sure if you are referring to the Berry, or the potential new community space on the Glebe and which wording you are referring to regarding the importance of the open aspect.

Commented [OK18]: Yes. Mitigated by planting and sensitive development. Before permission was granted for development, we would cast iron legal guarantees about the future of the orchard and are considering strengthening the plan to be clearer about this. Is it too late to do this?

25. Does the Parish Council and indeed the District Council have a view that the proposed housing site, if made, should be included within the settlement boundary?

Commented [OK19]: No. The settlement boundary should stay as it is and not be extended, so the proposed Glebe development would be outside the settlement boundary.

26. Finally, is the Parish Council's expectations that pedestrian access to the main housing site should be through the new open space, in view of the absence of a pavement and street lighting from the lane and should this be included as a policy requirement?

Commented [OK20]: Yes. There is no reason why a footpath should not go through the open space should we achieve the small development and the orchard and this would be defined in the legal agreement that the Glebe owner would be expected to make with the parish council.

Policy HS04: Tiverton Road Housing Site

27. Do the Parish Council and Mid Devon have a view as to whether the settlement boundary should be extended to include the site?

Commented [OK21]: No. The settlement boundary should stay as it is and not be extended, so the proposed Tiverton Road houses would be outside the settlement boundary.

28. Also, I am aware that a planning appeal has been granted on land which I assume is to the north of Applemead. Can Mid Devon send me a copy of the appeal decision and could the Parish Council offer a view that, whilst it was opposed to the development, once granted, this development should at least be referenced in the plan, possibly as a planning commitment, with a change in the settlement boundary to reflect the consent. I would also appreciate Mid Devon's view on the implications of that appeal decision, for the neighbourhood plan.

Commented [OK22]: We agree that these proposals should be referenced in the Plan.

Policy HS05: Community Housing

29. Is it the intention of the policy to allow community housing sites, which are not within or adjacent to the settlement boundary as a consequence of Policy HS01 but are away from the existing village in the countryside. I note the reference to "reasonable and safe walking distance to existing community facilities". Would the Parish Council offer a view as to what distance a parent taking a child to the local primary school would be expected to walk from that community housing site. Would the absence of pavements and street lighting along the lanes still constitute safe walking routes? I appreciate that this policy is at variance with the local plan's rural exception site policy, which refers to rural exception sites being adjacent to the settlement.

Commented [OK23]: We propose replacing 'locations within a reasonable and safe walking distance' with 'locations that are preferably within a reasonable and safe walking distance'. We would reluctantly agree to locations further out given the lack of available land, the cost of building footpaths and widening roads, and the fact that many parents drive their children to school (e.g. from Ellerhayes).

Policy HS06: Parking Spaces on Housing Developments

30. Whilst I fully acknowledge the parking issues within the village, especially within the conservation area, where there is little off-street parking for the properties, what is the Parish Council's evidence that car ownership levels within the village are higher than other villages in Mid Devon district which will have a different parking standard. I would refer the Parish Council to paragraph 107 of the NPPF.

Commented [OK24]: We have photographic evidence of the parking issues. There is a poor bus service especially at weekends. We feel the current policy of 1.7 parking spaces per house does not reflect modern living where there are multiple cars per household due to the trend of adult children still living at home.

31. Can I have the Parish Council's opinion as to what garage size would be acceptable to be able to accommodate a family sized car and bicycle. I note that the District Council does not include garages as part of the parking calculation, as they are unlikely to be used for car parking? Is there any anecdotal evidence that Silverton should be treated differently to the rest of the district as to how garages are actually used?

Commented [OK25]: We would aim for 25% larger (approximately 23 sq m)

32. Can Mid Devon confirm that electric car charging is now covered by Part S of the Building Regulations?

Policy BJ01: Roosters Babylon Lane Employment Site

33. Can I assume that the key to Map 10 which refers to potential residential use, is a mistake and should be removed?

Commented [OK26]: Yes. The plan will be amended.

34. The policy refers to business/ employment uses but the text of the justification refers to light industrial use. I would question whether, in this location, a limit to light industrial use is actually justified? Why would say B2 workshops or Class B8 storage uses be unacceptable?

Commented [OK27]: Narrow lanes only access the property limiting the size and amount of traffic.

Policy BJ03: Home Working

35. Is it the intention that by allowing employment use / light industrial uses within residential properties, that the expectation is that non- residents would also be capable of being employed at the premises?

Commented [OK28]: Yes, but in very small numbers.

36. Is the reference to conversion of outbuildings making reference to the conversion to residential outbuildings and if it is, could the District Council comment on whether from a development management perspective, it would be possible to prevent those outbuildings covered by iv), from returning to uses which are incidental to the enjoyment of the dwelling?

Policy TR03: Traffic Management

37. Can Mid Devon confirm under what circumstances an applicant would be expected to have to submit a Transport Assessment?

38. There are some elements of this policy (and indeed some other policies in this chapter) which do not meet the legal requirement of a neighbourhood plan policy, which is a land use policy to be used to determine planning applications. I would quote the policy support for a lorry ban or a 20mph speed limit. Did the Parish Council consider including within the plan document, a section dealing with non-development plan matters, which are clearly important to the local community, but which are not land use planning matters? This would similarly apply to the matters within Policy TR05 dealing with vehicle sharing.

Commented [OK29]: Yes. We will include it in the Plan in the non-land use section.

Accept reluctantly and add to new Annex as suggested.

39. For your information, I set down a section of Secretary of State's advice set out in the Planning Practice Guidance dealing with this issue.

A neighbourhood plan should, however, contain policies for the development and use of land. This is because, if successful at examination and referendum (or where the neighbourhood plan is updated by way of making a material modification to the plan and completes the relevant process), the neighbourhood plan becomes part of the statutory development plan. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise (see [section 38\(6\) of the Planning and Compulsory Purchase Act 2004](#)).

Wider community aspirations than those relating to the development and use of land, if set out as part of the plan, would need to be clearly identifiable (for example, set out in a companion document or annex), and it should be made clear in the document that they will not form part of the statutory development plan."

Concluding Remarks

40. I am sending this note direct to Silverton Parish Council, as well as Mid Devon District Council and I would request that the two parties' response to my questions should be sent to me by 5 pm on **19th May 2023** and also copied to the other party.
41. I would also request that copies of this note and the respective responses are placed on the Neighbourhood Plan's and also Mid Devon District Council's website.

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Independent Examiner to the Silverton Parish Neighbourhood Plan 28th April 2023