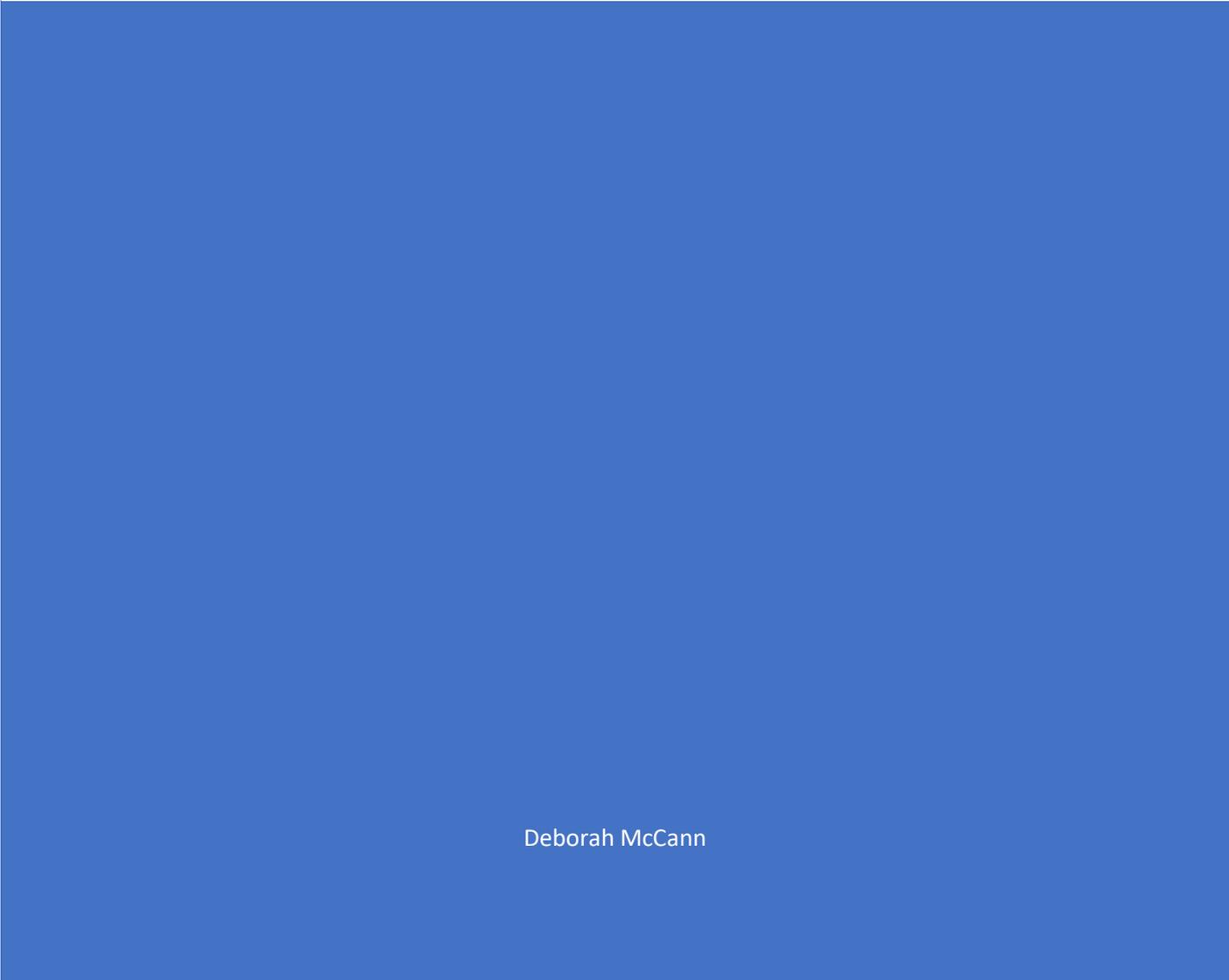




**Independent Examiner's Report of the**  
**Dartmouth Neighbourhood Plan**



Deborah McCann

Author

Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD

Planning Consultant

NPIERS Examiner

CEDR accredited mediator

SEPTEMBER 2022

## **SECTION 1 Contents**

### **CONTENTS**

#### **Section 1**

Contents.....	3
---------------	---

#### **Section 2**

Summary.....	4-5
--------------	-----

#### **Section 3**

Introduction.....	6-8
-------------------	-----

#### **Section 4**

The Report.....	9-76
-----------------	------

1. <i>Appointment of the Independent Examiner</i> .....	9
---	---

2. <i>Qualifying Body</i> .....	9
---------------------------------	---

3. <i>Neighbourhood Plan Area</i> .....	9
---	---

4. <i>Plan Period</i> .....	9
-----------------------------	---

5. <i>South Hams District Council Regulation 15 assessment of the plan</i> .....	9
--	---

6. <i>Site Visit</i> .....	9
----------------------------	---

7. <i>Consultation Process</i> .....	9
--------------------------------------	---

8. <i>Regulation 16 Consultation and Comment on Responses</i> .....	9
---	---

9. <i>Compliance with the Basic Conditions</i> .....	10
--	----

10. <i>Planning Policy</i> .....	10
----------------------------------	----

11. <i>Other Relevant Policy Considerations</i> .....	11-14
---	-------

12. <i>Dartmouth Neighbourhood Plan Policies</i> .....	14-76
--	-------

#### **Section 5**

Conclusions and Recommendations.....	77
--------------------------------------	----

## **SECTION 2**

### **Summary**

As the Independent Examiner appointed by South Hams District Council to examine the Dartmouth Neighbourhood Plan, I can summarise my findings as follows:

1. *I find the Dartmouth Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.*
2. *I am satisfied that the Referendum Area should be the same as the Plan Area, should the Dartmouth Neighbourhood Plan go to Referendum.*
3. *I have read the Dartmouth Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.*
4. *I find that the Dartmouth Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.*
5. *The Dartmouth Neighbourhood Plan Area is within the area covered by South Hams District Council. The development plan for the area is the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.*

## **SECTION 3**

### **Introduction**

#### **1. Neighbourhood Plan Examination.**

My name is Deborah McCann, and I am the Independent Examiner appointed to examine the Dartmouth Neighbourhood Plan.

I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.

My role is to consider whether the submitted Dartmouth Neighbourhood Plan meets the Basic Conditions and has considered human rights; and to recommend whether the Dartmouth Neighbourhood Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.

The Dartmouth Neighbourhood Plan must be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I concluded that it was not necessary to hold a Hearing.

#### **2. The Role of Examiner including the examination process and legislative background.**

The examiner is required to check whether the neighbourhood plan:

- *Has been prepared and submitted for examination by a qualifying body*
- *Has been prepared for an area that has been properly designated for such plan preparation*
- *Meets the requirements to*
  - i) specify the period to which it has effect;*
  - ii) not include provision about excluded development; and*
  - iii) not relate to more than one neighbourhood area and that*
- *Its policies relate to the development and use of land for a designated neighbourhood area.*

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:

1. The Plan can proceed to a Referendum
2. The Plan with recommended modifications can proceed to a Referendum

Where a policy does not meet the Basic Conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.” As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with ‘Wider Community Aspirations’. I will not generally refer to parties on these detailed revisions. I will make modification either to meet the Basic Conditions, to correct errors or provide clarification. However, the focus of my examination, as set out in

legislation is relatively narrow, I must focus on compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or are overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I am also very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community's intent in producing their neighbourhood plan.

### 3. The Plan does not meet the legal requirements and cannot proceed to a Referendum

3.1 I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Dartmouth Neighbourhood Plan go to Referendum.

3.2 In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- *the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004*
- *the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect*
- *the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.*

3.3 I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;

- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area.

There is now an additional Basic Condition to be considered. Since the 28th of December 2018, the Neighbourhood Planning (General) Regulations 2012 Such 2 para 1 has stated:

"In relation to the examination of Neighbourhood Plans the following basic condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act-

The making of the Neighbourhood Plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017."

The Plan must also not breach, and otherwise be compatible with EU obligations and Human Rights requirements.

South Hams District Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e. greater than 50%), voting in favour of the plan, then the Council must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.

## **SECTION 4**

### **The Report**

#### **1. Appointment of the Independent examiner**

South Hams District Council appointed me as the Independent Examiner for the Dartmouth Neighbourhood Plan with the agreement of the Dartmouth Town Council.

#### **2. Qualifying body**

I am satisfied that Dartmouth Town Council is the Qualifying Body.

#### **3. Neighbourhood Plan Area**

The Dartmouth Neighbourhood Plan Area was designated on the 11<sup>th</sup> of December 2014 under the Neighbourhood Planning Regulations 2012 (part 2 S6). The area covers the administrative boundaries of the Parish of Dartmouth. The Qualifying Body have confirmed that there are no other neighbourhood plans covering the designated area.

#### **4. Plan Period**

The Plan identifies the period to which it relates as 2019 to 2034 a period chosen to tie in with the development plan for the area, the Plymouth and South West Devon Joint Local Plan (the JLP).

#### **5. South Hams District Council Regulation 15 Assessment of the Plan.**

Dartmouth Council submitted the plan to South Hams District Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. The Council has made an initial assessment of the submitted Dartmouth Neighbourhood Plan and the supporting documents and is satisfied that these comply with the specified criteria.

#### **6. The Consultation Process**

The Dartmouth Neighbourhood Plan has been submitted for examination with a Consultation Statement which sets out the consultation process that has led to the

production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

- (a) It contains details of the persons and bodies who were consulted about the proposed Neighbourhood Plan;
- (b) It explains how they were consulted;
- (c) It summarises the main issues and concerns raised by the persons consulted; and
- (d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed Neighbourhood Plan.

Having examined the documents and considered the focus of the Neighbourhood Plan I conclude that the consultation process was robust, well conducted and recorded.

A list of statutory bodies consulted is included in the Consultation Statement.

### **7.Regulation 16 consultation by South Hams District Council and record of responses.**

South Hams District Council placed the Dartmouth Neighbourhood Plan out for consultation under Regulation 16 from the 25<sup>th</sup> February 2022 to the 8<sup>th</sup> April 2022, the statutory 6 week period.

### **8.Site Visit**

I carried out an unaccompanied site visit to familiarise myself with the Neighbourhood Plan Area on the 29<sup>th</sup> July 2020.

### **9. Compliance with the Basic Conditions**

The Qualifying Body have produced a Basic Conditions Statement. The purpose of this statement is to set out in some detail how the Neighbourhood Plan as submitted meets the Basic Conditions. It is the Examiner's Role to take this document into consideration but also take an independent view as to whether or not the assessment as submitted is correct.

I must determine whether the Dartmouth Neighbourhood Development Plan:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements.

Documents brought to my attention by the District Council for my examination include:

- *Dartmouth Neighbourhood Plan - the main document which includes policies developed in consultation with the community at various engagement events and workshops.*
- *Basic Conditions Statement - sets out how the plan meets the Basic Conditions*
- *Consultation Statement – sets out how the community, and other stakeholders, have been involved in preparing the Plan.*
- *Strategic Environmental Assessment (SEA) Screening Report*
- *Habitats Regulations Assessment (HRA) screening opinion*

## **Comment on Documents submitted**

I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Dartmouth Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions.

## **10.Planning Policy**

### **10.1. National Planning Policy**

National Policy guidance is in the National Planning Policy Framework (NPPF). At the time of the preparation of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF)February 2019 (as updated).

To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan "must be in general conformity with the strategic policies of the local plan”.

Paragraph 29 states:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

The Dartmouth Neighbourhood Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.

I have examined the and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to minor modification does meet the Basic Conditions in this respect.

### **4.11 Local Planning Policy- The Development Plan**

The Dartmouth Neighbourhood Plan Area is within the area covered by South Hams District Council. At the time of my examination, the Development Plan for the area

was the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.

To meet the Basic Conditions, the Dartmouth Neighbourhood Plan Neighbourhood Plan must be in “general conformity” with the strategic policies of the development plan.

The NPPF 2019 (updated) states:

“20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision<sup>12</sup> for:

- a) housing (including affordable housing), employment, retail, leisure and other commercial development;
- b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- c) community facilities (such as health, education and cultural infrastructure); and
- d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

Neighbourhood Plans should only contain non-strategic policies. The NPPF 2019(updated) states:

“Non-strategic policies

28. non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver

sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.

The distinction between strategic and non-strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e)) When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.

Planning Policy Guidance paragraph 41-076-20140306 sets out that:

“Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan

•whether the Local Plan identifies the policy as being strategic”

I have examined the Dartmouth Neighbourhood Plan and consider that, subject to modification, the plan is in general conformity with the Strategic Policies of the Development Plan and does meet the Basic Conditions in this respect.

## **11. Other Relevant Policy Considerations**

### **11.1 European Convention on Human Rights (ECMR) and other European Union Obligations**

As a ‘local plan’, the Neighbourhood Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC.

South Hams District Council carried out a Strategic Environmental Assessment (SEA) screening exercise (November 2021) in consultation with relevant statutory bodies. ‘Having taken all of the relevant policies of the draft Neighbourhood Plan into account and assessed the potential environmental impact on designated sites and landscapes, it is the Council’s opinion that a full SEA is not required for the Dartmouth NP’

The Statutory Consultees agreed with this conclusion.

### **Habitats Regulations Assessment (HRA)**

In November 2021, South Hams District Council as the competent authority carried out HRA to comply with Regulation 105 of the Habitats Regulations 2017. Under these Regulations, a competent authority must consider whether a relevant plan is likely to have a significant effect on any European sites before deciding to give any consent, permission or other authorisation.

The conclusion of the assessment was:

Eastern parts of the Dartmouth NP area fall within the Sustainance and Landscape Connectivity Zones of the South Hams SAC for Greater Horseshoe Bats. The plan area lies adjacent to the Lyme Bay and Torbay SAC. The Plan does not specifically allocate any development sites. In the light of this Council consider the Dartmouth

Neighbourhood Plan will not have a significant effect on a European Site and therefore further assessment under the Habitat Regulations is not required.

I am also satisfied that the Prescribed Conditions have been met.

### **11.2 Sustainable development**

Paragraphs 7 to 14 of the NPPF (Feb 2019 as updated) identify the components of sustainable development, and how planning applications and local plans can meet these requirements.

The Basic Conditions Statement sets out how the neighbourhood plan addresses the requirement to achieve sustainable development.

My conclusion is that the principles of Sustainable Development required in the NPPF have been considered in the development of the plan and its policies and where issues have been identified they were addressed by revisions to the document prior to submission. I am satisfied that the Dartmouth Neighbourhood Plan subject to the recommended modifications addresses the sustainability issues adequately.

The Neighbourhood Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.

I am satisfied that the Dartmouth Neighbourhood Plan has done so.

I am therefore satisfied that the Dartmouth Neighbourhood Plan meets the basic conditions on EU obligations.

### **11.3 Excluded development**

I am satisfied that the Dartmouth Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.

### **11.4 Development and use of land**

I am satisfied that the Dartmouth Neighbourhood Plan, subject to modification covers

development and land use matters.

## **General Comments**

Planning Guidance on preparing neighbourhood plans and policies is clear, it states:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”

In order to provide clarity and to ensure that the policies in the Dartmouth Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.

As I have found it necessary to modify a number of policies it may also be necessary to modify the supporting text within the plan to align with the modified policies, where this is necessary. The details of these modifications are set out within my comments on the related policies. My comments on policies are in **blue** with the modified policies in **red**.

## **12.The Neighbourhood Plan Vision, Strategic Aims and Policies**

### **12.1 VISION Statement**

## **Dartmouth towards 2034 – Planning our future**

With its exceptional setting between dramatic coastline and countryside in an area of outstanding natural beauty, it is no surprise that historic Dartmouth with its naval traditions is so loved by residents and visitors alike. The future success of our town depends on an understanding of the delicate balance between many competing factors. We identify these factors, and endeavour to sustain and nourish those elements that will enable Dartmouth to thrive for future generations.

The beauty and appeal of our town cannot be taken for granted. With only limited space available, increasing demands for development must be balanced by the need to enhance our environment and protect our heritage. We wish to conserve our matrix of green spaces, vital for the wellbeing of wildlife and people, young and old alike. A healthy community is a cohesive one. We identify opportunities for housing, employment and recreation. These, combined with more efficient and sustainable transport, good communications, excellent schools, and health and social facilities that cater for all needs, will help all members of our community. And we will encourage biodiversity and effective protection against coastal erosion and flooding from climate change. New technological advancements will offer new and exciting opportunities to improve our lives; we intend to embrace them.

Careful planning, done for the benefit of all, will enhance our town so that our healthy and vibrant community can continue to grow and flourish.

### **THEMES AND OBJECTIVES** pages 10-11

#### **COMMENT**

**I am satisfied that the Dartmouth NDP vision and objectives were developed from the consultation process and that the policies within the plan reflect the vision and objectives.**

### **DARTMOUTH NEIGHBOURHOOD PLAN POLICIES**

#### **Policy DNP GE 1 Impact on the South Devon Area of Outstanding Natural Beauty (AONB) Undeveloped Coast and Heritage Coast**

In addition to National and Development Plan policies and guidance controlling development in and within the setting of the South Devon AONB, Undeveloped Coast and Heritage Coast, development within the designated landscapes must demonstrate, where appropriate due to the size and scale of the development the following; -

a) how it maintains and enhances the intrinsic Landscape Character Areas and Types (LCT) of the landscapes affected as set out in the latest Landscape Character Assessment for the South Hams;

b) why it cannot be accommodated reasonably outside the Heritage Coast and Undeveloped Coast designation;

c) How the natural assets and constraints of a development site including existing trees have been assessed. Substantial harm to or loss of irreplaceable habitats such as ancient woodland and within historic boundary features, walls, hedges, banks and ditches should be wholly exceptional;

d) how opportunities for improving public access to and the enjoyment of the coast have been included.

## **COMMENT**

**Paragraph c) of the policy does not accurately reflect the requirements of the NPPF. For clarity and to meet the Basic Conditions, paragraph c should be modified as follows:**

**c) How the natural assets and constraints of a development site including existing trees, historic boundary features, walls, hedges, banks and ditches have been assessed. Substantial harm to or loss of irreplaceable habitats (such as ancient woodland and ancient and veteran trees) will be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists;**

**Policy DNP GE 2 Safeguarding the biodiversity and Green Infrastructure throughout the Parish**

Where appropriate due to the size and scale development proposals should; -

- a) Include a Green Infrastructure plan to show how the development can improve greenspaces and corridors for people and nature, in the context of the parish and where possible connecting to the green matrix of the plan area and the broader green infrastructure of South Devon. The individual components of the green matrix illustrated in Map 7, Appendix E1 and wildlife resources included in Appendix E2 should be protected. Opportunities should be sought to improve accessibility, enhance and extend this matrix. The presence and importance of the Greater Horseshoe Bat sustenance zone of the South Hams SAC in the Plan area should be recognised.
- b) Include a biodiversity action plan which includes details of how the development will achieve a net gain in biodiversity in compliance with national policy requirements.
- c) Retain on site natural features such as Devon banks, stone walls, steps, hedgerows, protecting existing mature trees beyond those protected within a Tree Preservation Order or the Conservation Area.
- d) Where possible replace any alien and foreign species of trees considered invasive or harmful with indigenous species.
- e) Promote where reasonable opportunities for improving access to heritage assets and green space through new walking routes.
- f) An increase in paved areas resulting in loss of habitats and increased flood risk is generally not supported.

## **COMMENT**

**I have no comment on this policy.**

## **Policy DNP GE 3 Local Green Spaces**

The following green open spaces within the plan area are designated as Local Green Space. These areas illustrated in Map 8, 8a and detailed in Green Space,

Environment and Community Table 3 <https://dartmouthplan.org/wp-content/uploads/2021/12/green-spaces-table-3.pdf>

are small tracts of land, meet the criteria described in NPPF paragraph 102. All development within or in the vicinity of the LGS must respect and not compromise this designation;-

LGS1 Coronation Park

LGS2 Royal Avenue Gardens

LGS3 Community Greenhouse and adjacent gardens

LGS4 Green spaces and shelter beside Dartmouth Castle Wall (excluding Hawley's Fortalice wall)

LGS5 Castle Estate

LGS6 Jawbones Allotments

LGS7 Milton Lane Allotments

LGS8 Longcross cemetery

LGS9 Community Orchard

LGS10 Warfleet Creek, Lime Kilns, Quay and Slip.

LGS11 Sandquay wood

LGS12 Norton Wood

LGS13 Norton Field

LGS14 Manor Gardens and viewing platform

LGS15 Crosby Meadow

LGS16 Jawbones Beacon Park

LGS 17 Bowling Green

LGS 18 Play area at the junction of Victoria Road and Vicarage Hill

## **COMMENT**

**My comments on this policy should be read in conjunction with my comments on Policy DNP HW 2, Community Facilities.**

**I have received objection to the designation of the following as LGSs:**

**LGS13 Norton Field**

**LGS14 Manor Gardens and viewing platform**

**LGS15 Crosby Meadow**

**LGS16 Jawbones Beacon Park**

**LGS 17 Bowling Green**

**I have carefully considered the comments made and whilst an objection by an owner is not automatically a barrier to the designation of a LGS it is my role to carefully consider whether the objection raises issues which are relevant in the decision-making process. It should be noted that in considering the objections I must confine myself to considering whether the proposed areas meet the NPPF tests set out below.**

**Paragraph 103 of the NPPF states that the policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraphs 147-149 detail the policy framework for development affecting the Green Belt. Paragraph 147, states;**

**“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”**

**Concerns have been raised that designation as a LGS may interfere with the**

management and development of the sites for their existing or related purposes.

However, designation as a LGS does not preclude all development. It protects a designated site from inappropriate development except in very special circumstances. Paragraph 149 of the NPPF (2021) sets out what types of development would not (my emphasis) be considered inappropriate:

" 149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

a) buildings for agriculture and forestry;

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

– not cause substantial harm to the openness of the Green Belt, where the

development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

Local Green Space designation is a “restrictive and significant policy designation” equivalent to Green Belt designation. It is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full.

The NPPF 2021 states:

“101. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs, and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.

102. The Local Green Space designation should only be used where the green space is:

- a) in reasonably close proximity to the community it serves;
- b) 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), tranquillity or richness of its wildlife; and
- c) local in character and is not an extensive tract of land.

103. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”

Given that the Framework is not ambiguous in stating that a Local Green

Space designation is not (my emphasis) appropriate for most green areas or open space, it is entirely reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements.

In addition, Neighbourhood planning guidance states:

" Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space."

Importantly, sites which are already subject to a statutory designation such as Historic Parks and Gardens or Scheduled Ancient Monuments are already subject to high levels of protection and would not benefit from an additional local designation. Likewise, sites which fall within the curtilage of a listed building or Conservation Area do not necessarily need additional protection under this policy as their importance and contribution to a settlement must already be considered if any application falls within or in the vicinity of these sites.

Whilst the number of proposed LGSs in the Dartmouth NDP is high I have carefully considered the evidence put before me for all the designations proposed. The decision to designate a particular site is a matter of planning balance and I have made my decision based on whether or not I consider the proposed designations meet the NPPF tests and I find that the proposed LGSs do meet the requirements of the NPPF with the exception of the following:

**LGS 1 Coronation Park**

**LGS 17 Bowling Green**

**LGS 18 Play area at the junction of Victoria Road and Vicarage Hill**

I consider that these proposed LGSs fit more appropriately within the modified Policy DNP HW 2, Community Facilities.

For Clarity, the policy should be modified to reflect the requirements of the NPPF 2021 and recent caselaw (see Court of Appeal Judgement in the Case of The Queen (On the Application of Lochailort Investments Limited) and Mendip District Council Norton St Philip Parish Council 2nd October 2020) which clearly states that Local Green Space polices in neighbourhood plans should not deviate from the policy requirements of the NPPF. For clarity and to meet the Basic Conditions the policy should be modified as follows (Map 8, 8a and Green Space, Environment and Community Table 3 should be modified to accord with the modified policy):

***Policy DNP GE 3 Local Green Spaces***

The following areas illustrated in Map 8, 8a and detailed in Green Space, Environment and Community Table 3 <https://dartmouthplan.org/wp-content/uploads/2021/12/green-spaces-table-3.pdf> are designated as Local Green Spaces:

***LGS2 Royal Avenue Gardens***

***LGS3 Community Greenhouse and adjacent gardens***

***LGS4 Green spaces and shelter beside Dartmouth Castle Wall (excluding Hawley's Fortalice wall)***

***LGS5 Castle Estate***

***LGS6 Jawbones Allotments***

***LGS7 Milton Lane Allotments***

***LGS8 Longcross cemetery***

***LGS9 Community Orchard***

***LGS10 Warfleet Creek, Lime Kilns, Quay and Slip.***

***LGS11 Sandquay wood***

***LGS12 Norton Wood***

***LGS13 Norton Field***

***LGS14 Manor Gardens and viewing platform***

***LGS15 Crosby Meadow***

***LGS16 Jawbones Beacon Park***

**Inappropriate development will not be supported except in very special circumstances.**

#### **Policy DNP GE4 Allotments**

The allotments at Milton Lane and Jawbones will be retained. The importance of Milton Lane and Jawbones allotments as assets to the community, and local food production is recognised by their designation in this plan as Local Green Spaces. The re-purposing or encroachment on these existing sites will not be supported.

Development that includes provision for community allotments will be supported.

#### **COMMENT**

**I have no comment on this policy.**

#### **Policy DNP GE5 Maintaining the character and the environmental quality of the river**

The natural characteristics of the Dart estuary should be retained in any development along the waterside. For any future waterside development consideration should be given to respect the following criteria; -

a) All existing wooded areas visible from the river, particularly those running to the water's edge and/or where they start at the visible natural ridge line should be retained;

b) Any adverse impact on the health and quality of the river from development must

be mitigated against; this includes impact from noise, pollution, such as sewage and litter;

c) There should be an overall positive impact on the wildlife designations along the river edge as indicated in the Green Matrix strategy (Map7) and the Wildlife Resource Map for the Plan Area (Appendix E2) Designations that must be safeguarded include; Special Areas of Conservation, County Wildlife Sites, Strategic Nature Areas and Other Sites of Wildlife Interest.

## **COMMENT**

**I have no comment on this policy.**

### **Policy DNP GE 6 Locally Important Views**

Development within the foreground or middle ground of the views shown in Maps 9a and b, and Appendix F <https://dartmouthplan.org/wp-content/uploads/2022/01/Appendix-F-1.pdf> should not harm and should, where possible, contribute positively to the existing composition of natural and built elements. Development should not be overly intrusive, unsightly or prominent to the detriment of the view as a whole, or to the landmarks within the view.

## **COMMENT**

**The number of views listed in this policy is extensive and could be considered as a record of the landscape setting of the parishes rather than identifying key views. However, I am satisfied that the policy does not place an overly onerous restriction on development within the identified views only a requirement to consider the impact of proposals on the viewpoints and ensure that the any impact “not be overly intrusive, unsightly or prominent to the detriment of the view as a whole, or to the landmarks within the view”. The list of views should be included in the policy.**

### **Policy DNP GE7 Actions to mitigate against climate change and carbon reduction**

This Plan supports the objectives contained in the Devon Climate Change Strategy (September 2018) and the emerging Devon Carbon Plan. All new development should: -

a) Assess and monitor the carbon footprint of the development, its impact on the local community, infrastructure and economy including tourism, employment, transport, farming. Proposals should assess its own operations to enable it to reduce carbon in the development and future operation.

b) Make the town and employment activities more innovative, environmentally friendly and responsible, carbon neutral and sustainable. This applies to all businesses in the Plan area but in particular the most prevalent sectors such as tourist accommodation, river activities, ferry companies, the marina, hospitality, and seasonal events.

c) Include composting and recycling facilities or access to a local community composting facility providing suitable management procedures are in place.

## **COMMENT**

**The requirements of this policy will not be relevant for all development proposals and neighbourhood plan policy cannot refer to emerging policy. For clarity the introduction of the policy should be modified as follows:**

**This Plan supports the objectives contained in the Devon Climate Change Strategy (September 2018). Development proposals should, where appropriate to the size and scale of development: -**

### **Policy DNP GE 8 Promotion of tree planting**

All appropriate development where it is demonstrated that the proposals achieve an increase in biodiversity and carbon capture through additional tree and other planting and appropriate land management will be supported.

Development that damages or results in the loss of ancient trees or trees of good arboricultural and amenity value will not normally be permitted. Proposals should be

designed to retain ancient trees or trees of arboricultural and amenity value. Proposals should be accompanied by evidence that establishes the health and longevity of any affected trees.

New tree planting should use only native and locally appropriate species and must not conflict with and should complement wildflower rich grasslands.

Community based initiatives to plant trees and enhance biodiversity, wildlife habitats and corridors within the plan area will be supported where appropriate.

## **COMMENT**

**The NPPF supports Biodiversity Net Gain (BNG) and it is likely that when the Environment Bill becomes law, it is likely that there will be a specific target for BNG. In addition, the policy does not adequately reflect the national policy position on Veteran and Ancient trees. For clarity and to meet the Basic Conditions, the policy should be modified as follows:**

### **Policy DNP GE 8 Promotion of tree planting**

**Development proposals should achieve an increase in biodiversity in accordance with national policy and carbon capture through additional tree and other planting and appropriate land management.**

**Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) will be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Proposals should be accompanied by evidence that establishes the health and longevity of any affected trees.**

**New tree planting should use only native and locally appropriate species and must not conflict with and should complement wildflower rich grasslands.**

**Community based initiatives to plant trees and enhance biodiversity, wildlife habitats and corridors within the plan area will be supported where appropriate.**

## **Policy DNP GE 9, Encouraging renewable energy**

The development of small scale renewable energy generation where supported by the community will be encouraged, this includes; -

- Biomass; where material is sourced from the coppicing local woodland and hedgerows;
- Hydro power generation from local watercourses;
- Technologies making use of the River Dart;
- Small scale solar power when roof mounted on domestic, employment and agricultural buildings;
- Ground source and air source heat pumps;
- Community heating and combined heat and power.

Wind turbines and large-scale ground mounted solar power are not considered appropriate methods of generation within the parish.

Where appropriate proposals should demonstrate that they will not affect the integrity of the Statutory and Non-Statutory wildlife sites within the parish and will have no detrimental impacts on South Devon AONB. Where necessary proposals must be supported by protected species surveys and the identification of any necessary mitigation measures.

For the purposes of this policy small scale is defined as less than 50Kwp.

### **COMMENT**

**The first paragraph of this policy is ambiguous and local support is not a prerequisite for the granting of planning permission. For clarity and to meet the Basic Conditions, the First paragraph should be modified as follows:**

**Where planning permission is required proposals for small scale renewable energy generation will be supported this includes; -**

**Policy DNP GE 10 Prevention of light pollution;**

Development should not detract from the unlit environment of Dartmouth and surrounding countryside and should minimise their impact on the night sky. The impacts of a development on dark skies and the proposed colour rendering and frequencies must be considered at application stage following generally the guidance of the Institute of Lighting Professionals and in particular on the impact of bats on lighting schemes (guidance note 8, Bats and Artificial Lighting)<sup>6</sup> The following will not be supported; -

- a) The use of a high proportion of glass in walls and roofs without consideration of the impact on the environment when internally lit.
- b) Security lighting, outside lighting, and floodlighting that is not designed to minimize their impact on the night sky with lighting deflected downwards and switched off after midnight.

**COMMENT**

**The introduction to this policy is confusing, for clarity the policy should be modified as follows:**

**Policy DNP GE 10 Prevention of light pollution;**

**To protect the dark sky environment of the Parish development proposals should follow the guidance of the Institute of Lighting Professionals and in particular on the impact of bats of lighting schemes (guidance note 8, Bats and Artificial Lighting)<sup>6</sup>. The following will not be supported; -**

- a) The use of a high proportion of glass in walls and roofs without consideration of the impact on the environment when internally lit.**
- b) Security lighting, outside lighting, and floodlighting that is not designed to minimise their impact on the night sky with lighting deflected downwards and**

**switched off after midnight.**

### **Policy DNP GE 11 Prevention of Flooding;**

Development within flood risk areas must be avoided unless no alternative sites are available.

Where there is no alternative to developing within a flood risk area, new development must be designed to be safe from flooding, not increase flood risk elsewhere and, where possible, reduce flood risk overall. Proposals should address the latest national guidance on meeting the challenge of climate change through flooding and coastal change. Where necessary proposals must demonstrate that the impact on the existing foul and surface water system has been assessed and includes details of on-site mitigation if required.

Any proposals in the proximity of the Environment Agency flood risk areas illustrated in map 10, and subsequent revisions to the Flood Map, and highlighted in their flood risk modeling should have due regard to historic flooding incidents and the reports of these prepared on behalf of Dartmouth Town Council, included as Appendix O.

There should be no adverse impact on local streams, leats, flood channels and neighbouring properties.

The design of any flood defences should be carried out in consultation with the community and appropriate to the historic and natural settings of the plan area. Materials used should be in accordance with the policies of this plan and the planning guidance of the South Devon AONB.

### **COMMENT**

**I have no comment on this policy.**

### **Policy DNP GE12. Settlement Boundary and the avoidance of coalescence;**

A settlement boundary for Dartmouth is designated in this Plan and illustrated in Map 11. Development inside the settlement boundary is acceptable in principle subject to

National Policy and Guidance and the Development Plan.

Development proposals outside the settlement boundary will be treated as development in the open countryside.

To protect the character and appearance of Dartmouth, development which erodes the visual separation of the settlement will not be permitted.

## **COMMENT**

**I have carefully considered the proposed development boundary and am satisfied that the process to establish the boundary was thorough and consistent.**

**The determining authority for a planning application is the LPA, therefore neighbourhood plan policies should refer to “supporting” or “not supporting” proposals. The phrase “will not be permitted” in the third paragraph should be replaced with “will not be supported”.**

### **Policy DNP EC 1 Tourism related employment and retention of hotels**

The change of use or redevelopment of a hotel and associated hospitality services to non- hotel use will generally not be supported. Such a change will only be supported provided that;-

- a) The proposed use would be compatible with the existing building and its surroundings and setting within the Dartmouth Conservation Area and South Devon AONB;
- b) No loss of hotel accommodation in the Parish or detriment to local employment will result;
- c) Demand for the hotel accommodation no longer exists. Where the loss of a hotel or tourism related site is justified as no longer viable the applicant must demonstrate through an independent assessment that the vacant unit has been actively marketed and offered at a reasonable sale price (comparable with valuations achieved

elsewhere in the District) for a minimum period of 2 years.

Development may include; -

d) Change of use to residential care or extra care which supports the Plan objectives to both provide employment and specialist affordable housing for the elderly.

## **COMMENT**

**I consider that the requirement to provide 2 years evidence has not been justified and goes beyond the period generally thought reasonable. For clarity and to meet the Basic Conditions, criterion c) of the policy should be modified as follows:**

**c) Demand for the hotel accommodation no longer exists. Where the loss of a hotel or tourism related site is justified as no longer viable the applicant must demonstrate through an independent assessment that the vacant unit has been actively marketed and offered at a reasonable sale price (comparable with valuations achieved elsewhere in the District) for a minimum period of 1 year.**

## **Policy DNP EC 2 Promotion of innovative tourism businesses**

This plan supports development that includes new, innovative and sustainable tourism related uses. Activities include but are not limited to; -

a) Green, low carbon and sustainable tourism

b) River and water based leisure activity;

c) The research and development of technologies that support the marine leisure industry;

d) Activities that link to the SW Coastal Path and cycle routes;

e) Cycle and electric cycle hire supporting sustainable tourism and transport.

The proposed uses should be compatible with their surroundings and setting within the town, river, countryside and conserve and enhance the South Devon AONB.

## COMMENT

**I have no comment on this policy.**

### **Policy DNP EC3 Additional employment land and safeguarding of existing employment uses.**

- a) Retention of existing employment sites is supported unless other suitable sites are found that are more compatible with the existing transport infrastructure and surrounding residential neighbourhoods. Changes of use resulting in the loss of employment land will generally not be supported.
- b) Upgrading, intensification and enhancement of existing employment sites with poor environments and access is supported. Provision of additional storage space on existing sites will be supported.
- c) In order to consider improvements on a comprehensive basis rather than piecemeal a Development Brief and masterplan for their regeneration should be prepared in consultation with the Town Council. A model brief is included in the Appendix P1. All development should respect and respond to the agreed brief.
- d) Where other suitable sites are identified, and the loss of an existing employment related site is considered justified as no longer viable and a change of use to non-employment use is proposed the applicant must demonstrate through an independent assessment that vacant units has been actively marketed and offered at a reasonable sale price (comparable with valuations achieved elsewhere in the District) for a minimum period of 2 years.

## COMMENT

**I have received representation that this policy is unclear in its intent and undermines Policy DEV14 of the JLP.**

**Policy DEV14 of the JLP states as follows:**

**“Maintaining a flexible mix of employment sites**

**A flexible supply of employment land and premises will be maintained to support investment and expansion of existing businesses as well as for the inward investment of high-value businesses, particularly but not exclusively those involved in the marine sector, advanced manufacturing and knowledge based industries. The following provisions will apply:**

**1. Change of use of existing employment sites (including vacant sites whose lawful use is for employment purposes) will only be allowed where the following applies:**

**i. The proposal is specifically provided for by the local plan to deliver wider strategic objectives, or**

**ii. There are overriding and demonstrable economic, regeneration and sustainable neighbourhood / community benefits from doing so, or**

**iii. There is no reasonable prospect of a site being used for employment use in the future.**

**2. The following categories of site will be specifically protected:**

**i. Sites that have clear future potential to support the future expansion of existing businesses.**

**ii. Employment sites with access to wharves and/or deep water facilities, quays and pontoons, which will be protected for marine related uses appropriate to the site and location.**

**3. Employment sites will be protected from inappropriate neighbouring development that will adversely affect the employment operations taking place on the site.”**

**Policy DEV14 sets out the Development Plan policy framework for the determination of applications affecting employment sites. I consider that the current wording of the policy is ambiguous with potential for conflict with the NPPF (2021) and Policy DEV14. For clarity and to meet the Basic Conditions the policy should be modified as follows:**

**Policy DNP EC3 Additional employment land and safeguarding of existing employment uses.**

**a) The change of use of existing employment sites will only be supported in exceptional circumstances and in accordance with the provisions of Policy DEV14 of the JLP.**

**b) Upgrading, intensification and enhancement of existing employment sites with poor environments and access is supported and in order for improvements to be considered on a comprehensive basis the development of a brief and masterplan should be prepared, in consultation with the Town Council. Proposals should reflect and respond to the agreed brief.**

**A model brief is included in the Appendix P1 for information.**

**c) Provision of additional storage space on existing sites will be supported.**

**Policy DNP EC4 Support for the primary and secondary shopping area of Dartmouth**

All development in the primary and secondary Shopping Areas illustrated in Map 12 should retain business and retail uses (User Class E) including restaurants and cafes. With the exception of those granted under Permitted Development other changes of use that compromises the primary and secondary shopping areas will not be supported.

Subdivision of existing retail and business units will generally be supported.

At upper levels of the Primary and Secondary Shopping Area this plan supports development of flats over shops in vacant or under-used accommodation. Adequate

parking must be provided in accordance with Plan Policy DNP ST2. Ancillary uses will be permitted providing they do not undermine the shopping and historic characteristics of the Conservation Area and the Primary Shopping Area. The amenity of existing uses should not be compromised with new development through noise, smells and congestion on pavements.

Where the loss of a retail or business related use is justified as no longer viable the applicant must demonstrate through an independent assessment that the vacant unit has been actively marketed and offered at a reasonable sale price (comparable with valuations achieved elsewhere in the District) for a minimum period of 2 years.

## **COMMENT**

**I have received representation that the requirement to provide parking in accordance with DNP ST2 is likely to result in upper floors remaining vacant however Policy DNP ST2 does accept that off-site parking may be provided where necessary. I consider that the requirement to provide 2 years evidence has not been justified and goes beyond the period generally thought reasonable. For clarity and to meet the Basic Conditions, the policy should be modified as follows:**

### **Policy DNP EC4 Support for the primary and secondary shopping area of Dartmouth**

**To protect the economic viability of the primary and secondary Shopping Areas illustrated in Map 12 proposals for business and retail uses (Use Class E) including restaurants and cafes will be supported. Where planning permission is required the change of use from Class E will not be supported other than where the existing use is no longer viable and the applicant can demonstrate through an independent assessment that the vacant unit has been actively marketed and offered at a reasonable sale price (comparable with valuations achieved elsewhere in the District) for a minimum period of 1 year.**

**Subdivision of existing retail and business units will generally be supported.**

**At upper levels of the Primary and Secondary Shopping Area this plan supports development of flats over shops in vacant or under-used accommodation. Adequate parking must be provided in accordance with Plan Policy DNP ST2. Ancillary uses will be permitted providing they do not undermine the shopping and historic characteristics of the Conservation Area and the Primary Shopping Area. The amenity of existing uses should not be compromised with new development through noise, smells and congestion on pavements.**

**Policy DNP EC 5 Business start-ups and mixed use employment including living over the shop, and live work.**

This plan supports the development of business start-up units within new and existing employment areas through the development of Brownfield sites and the upgrading of existing sites and the combination of employment and living accommodation, providing: -

- a) The development is in keeping with the scale of the surrounding residential area and other businesses;
- b) The new use will not have any detrimental impact on local residential amenities;
- c) Significant amounts of traffic and a need for parking will not be generated that cannot be adequately catered for by the existing infrastructure locally;
- d) The proposal will not have a harmful visual impact on the town or the adjacent open countryside.

**COMMENT**

**I have no comment on this policy.**

**Policy DNP EC 6 Employment uses in the countryside**

The conversion of redundant agricultural buildings, their expansion or development of new buildings for small-scale employment uses will be acceptable in principle

within the countryside provided that; -

- a) The scale of employment use is appropriate to the accessibility of the site by public transport, cycling and standard of local highways;
- b) Proposals respect the character and qualities of the landscape and environment as outlined in Policy DNP GE1 and include effective mitigation measures to avoid adverse effects or minimise them to acceptable levels.

An existing building is considered redundant if it has remained vacant for a period exceeding two years. Evidence in the form of dated photographs will be required to confirm the period that the building has remained vacant.

## **COMMENT**

**I have received representation that the final paragraph adds requirements that exceed those identified in JLP Policy DEV 15 without adequate justification. I concur with this opinion and conclude that the final paragraph of this policy should be deleted.**

**For consistency the phrase “will be acceptable in principle” should be modified to “will be supported in principle”.**

## **Policy DNP ST1: Footpaths and cycleways**

The existing PRoW and other access routes to the natural environment of Dartmouth should be protected and enhanced. All new development in the Plan area should link to a safe path network that connects the Parish, surrounding settlements, and the SW Coast Path where feasible. Where appropriate, opportunities to improve and extend the existing network will be sought as part of any development proposals. New and existing footpaths should:

- a) where appropriate and excluding the SW Coast Path promote their use as cycleways;
- b) in consultation with landowners introduce and help establish new routes which include completing the footpath links between Stoke Fleming and Dartmouth on the

A379 and linking safely Dartmouth Academy, Jawbones and Crowthers Hill. The route is illustrated on Map 13.

- c) have durable surfacing and effective drainage;
- d) be easy to navigate with discreet signage;
- e) be accessible to those with special needs where feasible;
- f) facilitate the use of electric bikes with charging points at location agreed with Devon County Council;
- g) include improved footbridges and stiles where required.

No new footpath, bridleway or multi access route should have a detrimental impact on wildlife habitats as outlined in the Wildlife Resource Map (Appendix E2) and any future revision.

The existing footpath network is shown in Map 13.

## COMMENT

**Policies in neighbourhood plans can only relate to the neighbourhood plan area. The section of this policy which refers to new footpath routes includes links to settlements outside the neighbourhood plan area. The appropriate place for this part of the policy would be in the community actions/projects section where the community can work with the relevant authorities and other communities to achieve the sustainable connections. I have received representation that the route referred to in paragraph b) should be shown on the proposals map however as a detailed route has yet to be determined I consider this would be premature. For clarity and to meet the Basic Conditions the policy should be modified as follows:**

### **Policy DNP ST1: Footpaths and cycleways**

**The existing PRow and other access routes to the natural environment of Dartmouth should be protected and enhanced. New development in the Plan**

area should, where possible link to a safe footpath network that connects the Parish, and surrounding settlements and the SW Coast Path. Where appropriate, opportunities to improve and extend the existing network will be sought as part of any development proposals. New and existing footpaths should:

a) where appropriate and excluding the SW Coast Path promote their use as cycleways;

b) in consultation with landowners introduce and help establish new routes which include completing the footpath links between Stoke Fleming and Dartmouth on the A379 and linking safely Dartmouth Academy, Jawbones and Crowthers Hill. The route is illustrated on Map 13.

c) have durable surfacing and effective drainage;

d) be easy to navigate with discreet signage;

e) be accessible to those with special needs where feasible;

f) facilitate the use of electric bikes with charging points at location agreed with Devon County Council;

g) include improved footbridges and stiles where required.

No new footpath, bridleway or multi access route should have a detrimental impact on wildlife habitats as outlined in the Wildlife Resource Map (Appendix E2) and any future revision.

The existing footpath network is shown in Map 13.

### **Policy DNP ST2: Car Parking and Coach Parking**

a) Existing public car parking should be managed to support the functional sustainability of the town and follow the recommendations of the DCC Transport Study (Appendices Q1 and Q2) and the emerging Transport Study. Where new development has impacts on public car parking these should be neutral or positive in

terms of this requirement.

b) No development will be supported that causes the significant loss of public car parking. Should spaces be relocated there should be no material reduction in their convenience to the town and local centres unless it can be demonstrated that the parking is no longer needed due to changes in vehicle use.

c) All proposals which are likely to generate an increase in on-street car, trailer and boat parking will be resisted, unless designed as part of an overall parking strategy within a development.

d) New residential development including sheltered housing must ensure there is no increase in on-street car parking.

e) Where achievable the indicative on-site parking standards set out in the JLP SPD (2020)<sup>7</sup> should be met;

1 bedroom

2 bedrooms

3 or more bedrooms

1 space plus 1 space per 3 dwellings for visitors; 2 spaces;

3 spaces.

This standard can be provided off site if such provision would be of greater overall benefit to the functional sustainability of the town and the development in question, and that off-site provision can be guaranteed as permanently available to the development.

f) Parking and charging facilities for electric vehicles, car club/pool vehicles and autonomous vehicles should take priority over petrol and diesel cars. Where new housing development can demonstrate a reduced need for parking due to the utilisation of car club/pool vehicles and autonomous vehicles this will be supported, if there are measures in place to support their use.

- g) Provision for cycle, ebike, scooter, and motorcycle storage, parking and EV charging should be provided wherever appropriate.
- h) New car parking proposals which adversely affect the setting of a development and surrounding landscape features will be discouraged.
- i) The area shaded in Map 14 should be safeguarded for coach and bus parking. No other use will be supported unless other suitable locations for coach and bus parking can be found.

## COMMENT

It has been brought to my attention that the DCC Transport study referred to in this policy is dated, in addition the “emerging Transport study” has no status for the examination of this plan. For consistency the phrase “will be resisted” should be replaced with “**will not be supported**”. For clarity and to meet the Basic Conditions paragraphs a) and c) of the policy should be modified as follows:

**a) Existing public car parking should be managed to support the functional sustainability of the town following the recommendations of the most recent DCC Transport Study (Appendices Q1 and Q2) or any replacement document. Where new development has impacts on public car parking these should be neutral or positive in terms of this requirement.**

**c) Proposals which are likely to generate an increase in car, trailer and boat parking will not be supported unless designed as part of an overall parking strategy within a development.**

## DNP Inf 1 Broadband Infrastructure

This Plan supports the provision on site infrastructure for the installation of, and allow the future upgrade and maintenance of, fibre optic broadband technology.

- a) All development is required to submit a connectivity statement to set out the proposed broadband provision. The statement shall include which broadband

supplier(s) can provide full fibre or fixed wireless coverage to the development to provide gigabit capable broadband provision.

b) All developments must be served with an appropriate open access fibre optic infrastructure to enable high speed and reliable broadband connection to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage unless there is evidence which demonstrates that providing the required infrastructure is not feasible or economically viable.

c) Installed infrastructure should allow all premises that form part of the approved development to access superfast or better broadband prior to occupancy.

d) The creation of a building to act as a fibre hub to enable fibre connections within the area will be supported.

## **COMMENT**

**Elements of this policy are overly onerous. Neighbourhood plan policy cannot require the submission of a connectivity statement or prescribe who can deliver broadband services. For clarity and to meet the Basic Conditions the policy should be modified as follows:**

### **DNP Inf 1 Broadband Infrastructure**

**This Plan supports the provision on site infrastructure for the installation of, and allow the future upgrade and maintenance of, fibre optic broadband technology.**

**a) Developers are encouraged to submit a connectivity statement to set out the proposed broadband provision.**

**b) New residential and non-residential development should, wherever possible include appropriate open access gigabit capable fibre optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.**

**c) The creation of a building to act as a fibre hub to enable fibre connections within the area will be supported.**

**Policy DNP TE1–Subdivision of existing plots.**

The subdivision of existing plots will only be supported where; -

- a) There is no loss to the character or environmental quality of the surroundings including the Conservation Area and South Devon AONB;
- b) The site is serviced by a suitable existing highway on one or more boundaries;
- c) The proposed plot sizes and dwelling sizes are in keeping with other building plots and dwelling sizes in the surrounding area;
- d) The amenity of adjoining properties is not compromised;
- e) Adequate amenity space provision is made creating useable private garden space for both the existing and proposed dwellings;
- f) The existing front building line, where appropriate, is maintained;
- g) There is adequate space for off street parking as outlined in Policy DNP ST2.
- h) The increase in hard surfaces and resultant surface water run-off is mitigated on-site and does not exacerbate habitat loss and flooding risks.

**COMMENT**

**I have no comment on this policy.**

**Policy DNP TE2: Design Quality throughout the Parish**

Development proposals in Dartmouth should demonstrate high quality design and will be supported where; -

- a) The design is locally distinctive, reflecting the appearance and character of the area in which the development is to be located. Innovative contemporary design

solutions will be supported providing they do not have a detrimental effect on the overall appearance and character of the area.

b) The height, scale and density of development reflects the existing grain, height, density and pattern of development in the surrounding area. The design should be in keeping with the site and its setting and respect the scale, character and siting of existing and surrounding buildings.

c) Strategically important, sensitive and prominent schemes of all scales should be considered at an independent, bespoke Design Review Panel, such an approach is outlined in JLP SPD 2020.9 This is of particular importance where proposals impact on the South Devon AONB, Conservation Area and heritage assets.

d) The external materials used should be locally distinctive, natural and where possible sourced within South Devon;

e) Building setbacks reflect adjoining buildings;

f) They incorporate the principles of sustainable and low carbon design as defined by this Plan and Development Plan Policy Dev 32;

g) It has regard to the requirements of CPtED and 'Secured by Design' to minimise the likelihood and fear of crime and acts of anti-social and unacceptable behaviour and community conflict in the built environment;

h) It reduces the dependence on the private car by supporting and connecting directly, where achievable to other more sustainable modes such as walking, cycling and public transport;

i) It retains and protects, wherever possible existing trees, verges, stone walls and hedges in situ. Any lost trees or hedges should be replaced elsewhere on site. Any wall affected should be reinstated;

j) It does not exacerbate flooding risks;

k) Existing footpaths or public rights of way must be retained, or acceptable

diversions agreed.

l) There is a safe means of access to the site, that does not result in the unacceptable loss of natural features, or the need to provide excessive widening of local roads.

m) Adequate off street car parking is provided;

n) The infrastructure needs of the development can be put in place prior to the commencement of the main development.

## COMMENT

**Criterion m) does not reflect Policy DNPST2 and criterion n) is overly onerous. For clarity and to meet the Basic Conditions, the policy should be modified criteria m) and n) should be modified as follows:**

**m) car parking is provided in accordance with Policy DNP ST2 of this Plan;**

**n) The infrastructure needs of the development should where possible be in place prior to the commencement of the main development.**

## **Policy DNP TE3 Safeguarding Designated and Non-Designated heritage assets and the conservation area of Dartmouth**

All proposals in the Dartmouth conservation area and in the vicinity of Designated and Non- Designated Heritage Assets must comply fully with National planning policy and the Development Plan relating to the Historic Environment and;-

a) Respect and enhance the Dartmouth Conservation Area and make a positive contribution to the heritage assets and their setting. Have regard to the Dartmouth Conservation Area Appraisal January 2013 including the four extensions to the area. All proposals must give due regard to one of the ten character areas listed below within which the proposal sits. The prevalent traditional materials, finishes and typical building forms outlined in the appraisal should also be respected.

b) Give due regard to the asset and demonstrate an awareness of the Devon

Historic Coastal and Market Towns survey (DHCMTS) and the Historic Urban Character Areas (HUCA) for Dartmouth produced by Devon County Council and English Heritage which is included as Appendix J3. Due consideration should be given to the historic character of the area within which a proposal sits.

c) Where relevant, include design features such as setbacks, stone or render walls and roof details that reflect the character and appearance of the surrounding buildings. For extensions, new doors, windows and roofing materials should be of a similar appearance to those used in the construction of the exterior of the original building.

d) Proposals that directly or indirectly affect the significance of Designated Heritage Assets included in Appendix J2 and the following Non-Designated Heritage assets and described in Appendix J1 <https://dartmouthplan.org/wp-content/uploads/2021/07/J1-Local-Non-Designated-Heritage-Assets.pdf> and illustrated in Map 15 should be judged according to the scale of any harm or loss and the significance of the asset to the parish. Heritage assets that should inform development include archaeological features and historic field boundaries.

LHA1 Telephone Box, Victoria Road

LHA2 Dartmouth Lower Ferry Landing Slip

LHA3 Dartmouth Visitor Centre

LHA4 Pony hoops, Crowthers Hill

LHA5 Former Norton Heliport Control Tower

LHA6 Water tower, Jawbones Hill

LHA7 The Armada Memorial Beacon, Jawbones Hill

LHA8 Crosby Meadow

LHA9 Historic walls of Dartmouth in various locations (see Map 15) LHA10 Coombe Recreation Ground, Coronation Park

LHA11 Dartmouth Cottage Hospital

## COMMENT

**I have no comment on this policy.**

### **Policy DNP TE 4: Respect, protection and enhancement of civic spaces**

The following spaces illustrated in map 16 and Appendix R1 are identified as civic spaces within Dartmouth; -

CS1 Rue de Courseulles Sur Mer/ Coronation Park Riverside

CS2 Flavel Place / The Quay

CS3 Bottom of Brown's Hill / Foss Street

CS4 Foss Street

CS5 Market Square

CS6 Anzac Street

CS7 St. Saviour's Church (areas to the North, West and South sides)

CS8 The Quay/Boatfloat

CS9 Pillory Square (Higher Street/ Smith Street)

CS10 South Embankment

CS11 Bayards Cove/ Coles Court

All development in the vicinity of these civic spaces should where appropriate; -

a) Respect, protect and enhance the physical qualities of the space expressed in the Conservation Area appraisal 2013 and the Historic Urban Character areas of the Devon Historic Coastal and Market Towns Survey for Dartmouth 2016.

b) Support community uses in the space, which can include but not limited to; -

- External seating areas;
- Shared surfaces for vehicles and pedestrians;
- Pedestrian priority;
- Improved public realm including soft landscaping, street furniture, durable and sustainable paving surfaces;
- Public art.

c) Facilitate greater economic activity in the spaces through external seating, events, dining and temporary 'pop up' uses.

d) Support active street frontages to attract social interaction and facilitate natural surveillance and the prevention of crime.

e) Facilitate clear, safe and legible public routes.

f) Support pedestrianisation on a temporary or permanent basis as and when appropriate.

g) Facilitate litter and recycling facilities within the spaces.

h) Any loss of car parking spaces within the civic spaces should be re-provided elsewhere within the town and respect the provisions of Policy DNP ST2.

i) Discourage activities that risk causing public nuisance such as noise pollution.

The plan also supports the introduction of new civic spaces within new residential areas that should also respect the above qualities.

## **COMMENT**

**Paragraph i) of this policy covers matters dealt with outside planning policy**

and should be deleted.

### **Policy. DNP TE5 Brownfield first**

This Plan promotes the redevelopment of previously developed land or 'brownfield'-first strategy before greenfield sites. All proposals must demonstrate conformity with other policies of this Plan with respect to the protection of the natural and historic environment. This approach will minimise encroachment on the countryside and AONB unless there is proven demand that cannot be met by the brownfield-first approach. The brownfield sites considered suitable for long term re-development as and when there is landowner support and they become available include existing builders' merchants, former health facilities, post office, carparks located within the urban area of Dartmouth. Within the lifetime of the Neighbourhood Plan such sites may become redundant or would benefit in the long term from intensification of existing employment sites and more effective use of land or change of use to C2 Residential Institutions C3 Housing or mixed use (C3 Housing and E Commercial, Business and Service.)

As stated in policy DNP EC3 changes of use resulting in the loss of employment land to the plan area will not be supported.

A schedule of sites that the community may look favourably on for intensification or re- development with a plan locating these and suggested uses are included as Appendix R2 and R3.

The conversion of existing buildings is also subject to the other policies of this plan. Priority will be given to new uses that provide maximum community benefit and are appropriate for the site in terms of accessibility and minimum traffic generation.

In order to consider development of brownfield and existing buildings is undertaken on a comprehensive basis a Development Brief should be prepared in advance of a planning application in consultation with the Town Council. A model brief is included in the Appendix P2 All development should respect and respond to the agreed brief.

Re-development of brownfield sites should be subject to a comprehensive survey of existing heritage assets and must avoid harm to these assets and protect and

enhance the historic environment as set out in national and local policy.

Developers should submit sufficient information to address flood risk to and from development sites. Development proposals within Flood Zones 2 and 3 will only be acceptable if they can satisfy the flood risk Sequential Test. The Exception Test may also need to be applied for certain uses. As a minimum, as well as being safe from flooding over its lifetime, development on such sites must also contribute to reducing the overall flood risk to the town.

All detrimental water impacts of any brownfield site on the river environment through surface water run off during construction and operation must be fully assessed prior to a planning application for re-development.

## **COMMENT**

**SHDC have raised a number of concerns in relation to this policy. These can be viewed in full on the SHDC website. I share the concern of SHDC that the wording of this policy is confusing and could have the unintended consequence of landowners bringing forward previously developed sites which are still currently viable for other uses which are perceived as having less value than a new use. I also share the concern that the inclusion of a list of sites identified as suitable for redevelopment in Appendix R2 and R3 could have the unintended consequence of encouraging speculative applications and to encourage landowners/purchasers to consider more profitable land uses at these locations thus undermining the existing uses, many of which enhance the sustainability and mixed use nature of Dartmouth and contrary to JPL Policies DV14 and DV15.**

**The schedule of sites that the community may look favourably on for intensification or re- development and the plan locating these included as Appendix R2 and R3 should be clearly marked as for information only.**

**Appendix P2 includes suggested sites and for the reasons given above this document should be deleted from the plan.**

**For clarity and to meet the Basic Conditions the policy should be modified as**

follows:

### **Policy. DNP TE5 Brownfield first**

**This plan supports prioritising the development of brownfield sites before greenfield sites, other than those allocated in the JLP. This strategy complements the greenfield sites allocated in the JLP whilst seeking to minimise further encroachment on the open countryside and the AONB. Proposals for the redevelopment of brownfield land will be prioritised unless there is proven demand that cannot be met by the brownfield-first approach.**

**As stated in policy DNP EC3 changes of use resulting in the loss of employment land to the plan area will not be supported.**

**The conversion of existing buildings is also subject to the other policies of this plan. Priority will be given to new uses that provide maximum community benefit and are appropriate for the site in terms of accessibility and minimum traffic generation.**

**Proposals for brownfield sites with existing buildings should be brought forward on a comprehensive basis. Applicants are encouraged to prepare a development brief in consultation with the Town Council.**

**Re-development of brownfield sites should be subject to a comprehensive survey of existing heritage assets and must avoid harm to these assets and protect and enhance the historic environment as set out in national and local policy.**

**Proposals for the re development of previously developed sites must comply fully with national policy and guidance and the Development Plan having particular regard to managing flood risk and water quality.**

### **Policy DNP H1 - Market Housing**

The principle of new market housing on infill sites is supported within the settlement boundary. In addition, market housing forming part of an exception site as set out in

Policy DNP H2 where it is required to cross subsidise the affordable housing scheme will be supported. All development should meet the following requirements; -

- a) The housing should respond to local housing needs in terms of type, size and tenure.
- b) Consideration should be given to provision of places for housing for the increasing number of older people in the parish in the form of market sale sheltered, specialist accommodation, extra care, or assisted living housing. By further consideration of older people this Plan also supports opportunities for existing residents to downsize and make more larger units available to the market.
- c) Higher standards of accessibility, adaptability and for wheelchair users should be considered beyond the JLP as evidence by the 2021 Housing Needs Assessment prepared for this Plan.

## **COMMENT**

**I have no comment on this policy.**

### **Policy DNP H2- Exception Sites outside the settlement boundary**

The use of Exception Sites adjoining the settlement boundary to deliver affordable housing will be supported where they comply with National and Development Plan policy and the policies of this plan. A site will only be permitted if; -

- a) It meets a proven need for affordable housing for local people.
- b) The needs of the local community are addressed.
- c) Management of the scheme will ensure that the dwellings continue to meet such proven needs for initial and subsequent occupiers.
- d) The development should reflect the character and scale of the parish and be physically integrated with it in terms of design, scale and pedestrian access.

e) The proposal conserves and enhances the landscape, scenic and natural beauty of the AONB and the design is in compliance with the latest South Devon AONB Management Plan and AONB Planning Guidance.

f) Cross subsidy through the provision of open market housing on the scheme will be allowed only where it ensures the delivery of the affordable housing and shall comprise the minimum number of open market dwellings necessary to ensure the delivery of affordable housing as part of the same development proposal, to be demonstrated by a viability appraisal of the full scheme.

## **COMMENT**

**The wording of this policy is, in some places confusing with repetition. For clarity the policy should be modified as follows:**

### **Policy DNP H2- Exception Sites outside the settlement boundary**

**The use of Exception Sites adjoining the settlement boundary to deliver affordable housing will be supported where they comply with National and Development Plan policy and the policies of this plan. A site will only be supported if; -**

**a) It meets a proven need for affordable housing for local people.**

**b) The proposal reflects the character and scale of the parish and would be physically integrated with it in terms of design, scale and pedestrian access.**

**c) The proposal conserves and enhances the landscape, scenic and natural beauty of the AONB and the design is in conformity with the latest South Devon AONB Management Plan and AONB Planning Guidance.**

**Cross subsidy through the provision of open market housing will only be supported where it ensures the delivery of the affordable housing and should be the minimum number of open market dwellings necessary to ensure the delivery of affordable housing as part of the same development proposal, to be demonstrated by a viability appraisal of the full scheme.**

Proposals for affordable housing development within the settlement boundary or as exception sites will be supported where; -

a) The number of affordable homes to be delivered is in line with the need as defined by Devon Homes Choice or the local affordable housing register in place at the time and where a need has been identified, this includes custom and self-build plots where feasible.

b) Affordability is determined with consideration of the particular circumstances of Dartmouth, namely high average property prices and low salaries.

c) The range and size of dwellings especially single bed units is in line with the need as defined by Devon Homes Choice or the local affordable housing register in place at the time.

d) Discounted 'First Homes' for young families shall be provided in line with National policy. Discounts should be 50% on the new home price to ensure First Homes are affordable to local incomes.

e) Homes should be occupied by people with a demonstrable local connection to the Parish which is defined within the SHDC Adopted Local Allocation Policy (2017). The early and urgent needs of key workers including teachers, healthcare workers, fire brigade and lifeboat crew should be considered exceptional circumstances under the provisions of the allocation policy.

f) Affordable housing for sale is subject to a legal restriction to ensure the homes remain affordable and that the discount is maintained in perpetuity.

g) Development in or within the visual impact of the AONB conserves and enhances the landscape, scenic and natural beauty of the AONB and the design is in compliance with the latest South Devon AONB Management Plan and AONB Planning Guidance.

Such developments could include proposals for Community Led Housing.

## **COMMENT**

I have received representation from SHDC (these can be seen in full on the SHDC website) regarding this policy. The concerns of SHDC relate to potential inconsistencies with strategic policies of the Joint Local Plan and national guidance as follows:

“The wording of policy DNP H3 used within the neighbourhood plan to seek boost local affordability is however potentially inconsistent with the strategic policies of the Joint Local Plan and in some places misleading when considering national guidance.

This includes a priority for First Homes as an affordable home ownership product. The Dartmouth Neighbourhood Planning Group should be aware that First Home Exception Sites are not eligible within Rural Designated Areas or within Areas of Outstanding Natural Beauty (AONB). This was made clear in the written ministerial statement (24 May 2021) which is afforded planning weight within the National Planning Policy Framework (paragraph 6). This would mean such sites would not be appropriate on land within Dartmouth that is so designated.

Strategic Policy SPT3 of the adopted JLP sets out the overall policy target for affordable housing delivery within the plan area. Policy DEV8 sets out the percentage of affordable Homes expected to be delivered on and offsite in order to achieve this total within the Thriving Towns and Villages Policy Area. The JLP Supplementary Planning Document (Para 4.79) sets out the preferred split of affordable Homes to be 65% as social rent and 35% affordable home ownership products. The policy thresholds for affordable housing were informed by an assessment of housing need at the strategic level in the Strategic Housing Market Assessment and through viability testing to ensure that such thresholds would not impact the overall deliverability of new proposals for housing including development allocations in Dartmouth. The evidence assumptions used in these documents were subject to examination at a Public Inquiry in respect of the JLP. The proposed policy for DNP H3 (criteria d) changes the assumptions used in that it seeks to prioritise First Homes as the preferred form of home ownership model and provides evidence

in a Housing Need Survey (AECOM, 2021) to suggest such Homes be sold at a 50% discount on market value based on levels of local housing need without viability evidence.

The Housing Needs Survey effectively highlights the concerning lack of housing affordability, however in changing viability assumptions without update or reference to existing viability work there is a level of risk which the Dartmouth Neighbourhood Planning Group should be aware of. The Written Ministerial Statement states that policy compliance including First Homes will be judged at the equivalent total value as locally adopted affordable housing policies (in this case JLP Policy DEV8) with at least 25% of those affordable homes as First Homes. No viability evidence has been undertaken to support the AECOM study to show that applying 50% discount to 25% of affordable Homes will not lead to a reduction in the overall proportion of affordable Homes at any given residential site and which would now be considered policy compliant. We do not know from the evidence presented whether this policy approach will lead a reduction in the number of both homes for Social Rent and the scale of impact on all affordable housing delivery in the Neighbourhood Plan Area should the plan be made.

For the above reason, in the absence of viability testing to prove otherwise, we cannot support the inclusion of First Homes in this policy. The approach to discounted First Homes has the potential to reduce affordable housing delivery and conflict with strategic policy SPT3 of the Joint Local Plan which seeks to deliver a minimum of 2,050 affordable Homes up to 2034. It is also unclear whether the policy would significantly prejudice the ability to meet the identified affordable housing needs of specific groups”.

I acknowledge the concerns raised by SHDC in relation to this policy and conclude that with modification the policy can address those concerns satisfactorily. The policy is currently confusing and covers elements of housing that cannot be delivered in certain parts of the neighbourhood plan area. However, I am satisfied that the policy can be modified to be in general conformity with the strategic policies of the Development Plan. For clarity and

**to meet the Basic Conditions the policy should be modified as follows:**

**Policy DNP H3 Affordable Housing.**

**Proposals for affordable housing development within the settlement boundary or as exception sites will be supported where; -**

**a) The number of affordable homes to be delivered is in line with the need as defined by Devon Homes Choice, the local affordable housing register or up to date Local Housing Needs Assessment in place at the time and where a need has been identified, this includes custom and self-build plots where feasible.**

**b) Affordability is determined with consideration of the particular circumstances of Dartmouth, namely high average property prices and low salaries.**

**c) The range and size of dwellings especially single bed units is in line with the need as defined by Devon Homes Choice or the local affordable housing register or Local Housing Needs Assessment register in place at the time.**

**d) Discounted 'First Homes' for young families shall be provided in line with National policy and guidance. Discounts should be 50% on the new home price to ensure First Homes are affordable for local incomes, subject to viability.**

**e) Homes should be occupied by people with a demonstrable local connection to the Parish which is defined within the SHDC Adopted Local Allocation Policy (2017). The early and urgent needs of key workers including teachers, healthcare workers, fire brigade and lifeboat crew should be considered exceptional circumstances under the provisions of the allocation policy.**

**f) Affordable housing for sale is subject to a legal restriction to ensure the homes remain affordable and that the discount is maintained in perpetuity.**

**g) Development in or within the visual impact of the AONB conserves and enhances the landscape, scenic and natural beauty of the AONB and the**

**design is in compliance with the latest South Devon AONB Management Plan and AONB Planning Guidance.**

**Such developments could include proposals for Community Led Housing.**

#### **Policy DNP H4 - Principal Residence**

a) New open market housing, excluding replacement dwellings, will only be supported where there is a restriction to ensure its occupancy as a principal residence guaranteed through a planning condition or legal agreement. This policy is as a result of impact upon the local housing market of second or holiday homes. New unrestricted market homes will not be supported at any time.

b) Principal residence is defined as one occupied as the residents' sole or main residence, where the residents spend the majority of their time when not working away from home. The condition or obligation on new open market homes will require that they are occupied only as the primary (principal) residence of those persons entitled to occupy them.

c) Occupiers of homes with a Principal Residence condition will be required to keep proof that they are meeting the obligation or condition and will be obliged to provide this proof if and when SHDC requests this information. Proof of Principal Residence includes but is not limited to residents being registered on the local electoral register and being registered for and attending local services including healthcare, and schools.

d) This policy applies to all new build development both allocated and windfall sites where open market housing is proposed within the Neighbourhood Plan Area.

e) A replacement dwelling is defined as a single new build dwelling replacing an existing dwelling. of equivalent size and design as the original dwelling.

f) Where a non-domestic property is converted to residential use through planning consent or by Permitted Development Rights such dwellings are considered new dwellings for the purposes of this policy.

## COMMENT

The supporting text to this policy states:

“A survey was carried out by the plan group of existing residential properties in the parish and a review of data held within the census, valuation records, electoral role and properties registered as businesses, this is included as Appendix H2. This survey indicates that in 2020 Dartmouth has a significantly higher number of second homes than in 2010. In 2011 it was 22.6% which was already above the 20% threshold commonly used as a benchmark figure in relation to the inclusion of a principal residence provision in a plan. At the end of November 2020, it stands at 37.8%. The survey also indicated that in Lower Town the number of second homes is far higher than the average and is in the region of 51.2% The river or sea views and level walks to tourist related facilities in this area make it area particularly attractive for second home owners and holiday lettings.

The policy below will support the housing needs of local people and bring greater balance and mixture to the local housing market and create new opportunities for people to live and work here and strengthen the community and local economy”.

Appendix H2 includes the following conclusions:

“The difference between the number of households with no usual residents in the 2011 census (768) and the number of households with no registered voters in 2020 (1008) shows that 31% more properties have no usual residents. Many of these are likely to be second homes including those let out but not registered for business rates.”

“There is a higher proportion of properties in Dartmouth (ex Townstal) without usual residents than in Townstal which houses more of the working population of the town. Lower Town of Dartmouth (ex Townstal) is the area which attracts most second home buyers. This area has 42.2% of households paying Council Tax with no electors.”

“Within the Lower Town in Dartmouth the percentage of properties with ‘no usual residents’ homes is higher yet. Of 1345 properties paying Council Tax only 736 had electors. The Lower Town locations with river/sea views and/or level walks to the Lower Town where most tourist related facilities are located. In this area 45.3% (609) had ‘no usual residents’ which is almost certainly an indication of the second homes in this area. If the 163 properties which are business rated in this area are added to the 609 with ‘no usual residents’ the percentage is 51.2%”

“Dartmouth clearly has a significantly higher number of second homes than in 2010 and well above the 20% threshold considered acceptable as a housing mix.”

The Dartmouth Housing Needs Assessment (HNA) May 2021 provides additional information on house prices in the area.

It is clear that there is strong community support for a principal residency occupancy restriction policy and that the community feel it is the right response to the situation within the parish regarding increasing second home ownership. The supporting evidence clearly sets out the statistics for the parish showing that the overall level of second home ownership exceeds 30% with certain areas of the town being over 40%. In addition, South Hams District Council support the inclusion of this policy.

My considerations relate to how the policy can meet the Basic Conditions particularly having regard to the NPPF – “delivering a wide choice of quality homes” and “delivering sustainable development” together with how the policy meets the requirements of the Human Rights Act 1988 and other European Legislation. I am satisfied that the information presented provides adequate evidence to support the contention that ongoing unrestricted open market housing development will have a negative impact upon the community and the affordability of dwellings for full time occupation and therefore its long-term sustainability.

I have looked at Mr. Justice (now Lord Justice) Hickinbottom’s judgment in R

(RLT Environment Ltd) v Cornwall Council in relation to Policy H2 of the St. Ives Neighbourhood Development Plan. Where he concluded:

“that Policy H2 is in pursuit of legitimate public interests identified in article 8(2), namely the interests of the economic well-being of the country, and for the protection of the rights and freedoms of others.”

I have also carefully considered the potential for unintended consequences on the local housing market and the future delivery of affordable housing.

On planning balance, I conclude that I have been provided with sufficient evidence to support a principal residency restriction policy for the Dartmouth Neighbourhood Plan Area on the basis that it is in the interests of the economic well-being of the area and would protect the rights and freedoms of the local community.

However, the wording of the policy lacks clarity and elements fall outside the scope of neighbourhood plan policy for example trying to impose policy restrictions on development undertaken under permitted development rights. For clarity and to meet the Basic Conditions, the policy should be modified as follows:

#### **Policy DNP H4 - Principal Residence**

**Due to the impact upon the local housing market, economy and community of second or holiday homes, new open market housing, excluding replacement dwellings will only be supported where there is a restriction to ensure its occupancy as a principal residence guaranteed through a planning condition or legal agreement. This policy applies to all new build development on both allocated and windfall sites where open market housing is proposed and conversion of existing buildings within the Neighbourhood Plan Area.**

**Principal residence is defined as one occupied as the residents' sole or main residence, where the residents spend the majority of their time when not working away from home. The condition or obligation on new open market homes will require that they are occupied only as the primary (principal)**

**residence of those persons entitled to occupy them.**

**Occupiers of homes with a Principal Residence condition will be required to keep proof that they are meeting the obligation or condition and will be obliged to provide this proof if and when SHDC requests this information. Proof of Principal Residence includes but is not limited to residents being registered on the local electoral register and being registered for and attending local services including healthcare, and schools.**

**A replacement dwelling is defined as a single new build dwelling replacing an existing dwelling of equivalent size and design as the original dwelling.**

**New unrestricted market homes will not be supported at any time.**

**Policy DNP H5 Specialist Accommodation for Older People, residential care nursing homes and loss of existing residential care.**

a) Additional Specialist Residential care provision will be supported in the Plan area. This should be provided with reference The Dartmouth Housing Needs Assessment 2021 (HNA) by AECOM Consultants and included in Appendix H1 The provision may comprise; -

- Extra Care
- Sheltered Housing
- Affordable Specialist Accommodation
- Market Specialist Accommodation

b) Loss of existing residential care and nursing homes for older people

The change of use or redevelopment of a care home or nursing home will only be permitted providing that new facilities of a similar type are provided in the parish to replace the facilities being lost; or there is a proven absence of demand for the continuation of the use and the site has been marketed effectively for such use over a period of at least 24 months at an appropriate level. In circumstances where the

loss of an existing care home or nursing home is considered to be acceptable, the site should be used for an alternative provision for the elderly, such as the provision of dwellings specifically designed for the elderly, and subject to an occupancy restriction to ensure that the dwellings are used for this purpose in perpetuity.

c) New homes for older people

All new development for older people which can form part of developments of mixed ages and tenures should comply with all the other housing policies of this plan and should be on previously developed land or sites within the settlement boundary, within easy access to local centres and meet the other policies of the plan, including those relating to design quality. Any new development should ensure that the appearance and character of the town or surrounding countryside are not harmed.

d) Design Standards for Specialist Accommodation for older people

Where viable the access standards should exceed the provisions of JLP Policy DEV9 against national standards for accessibility and adaptability (Category M4(2)), and for wheelchair users (Category M4(3)).

## COMMENT

**Elements of this policy are overly restrictive and unreasonable and as such do not meet the Basic Conditions. For clarity and to meet the Basic Conditions, the policy should be modified as follows:**

**Policy DNP H5 Specialist Accommodation for Older People, Residential Care Nursing Homes and Loss of Existing Residential Care.**

**Additional Specialist Residential care provision will be supported in the Plan area. This should be provided with reference to up to date evidence of need (including the Dartmouth Housing Needs Assessment 2021 (HNA)). The provision may comprise: -**

- **Extra Care**

- **Sheltered Housing**
- **Affordable Specialist Accommodation**
- **Market Specialist Accommodation**

**b) Loss of existing residential care and nursing homes for older people**

The change of use or redevelopment of a care home or nursing home will only be supported where there is a proven absence of demand for the continuation of the use and the site has been marketed effectively for such use over a period of at least 12 months. In circumstances where the loss of an existing care home or nursing home is supported in principle, the site should first be considered for an alternative provision for the elderly if viable, such as the provision of dwellings specifically designed for the elderly, and subject to an occupancy restriction to ensure that the dwellings are used for this purpose in perpetuity.

c) Proposals for new development for older people (which may form part of developments of mixed ages and tenures) should comply with all the other housing policies of this plan and should be on previously developed land or sites within the settlement boundary, within easy access to local centres and meet the other policies of the plan, including those relating to design quality. Any new development should ensure that the appearance and character of the town or surrounding countryside are not harmed.

**d) Design Standards for Specialist Accommodation for older people**

Where viable the access standards should exceed the provisions of JLP Policy DEV9 against national standards for accessibility and adaptability (Category M4(2)), and for wheelchair users (Category M4(3)).

**Policy DNP HW 1 Re-use of the former hospital site and health centre Zion Place.**

This plan supports maintaining community provision and facilities capable of being

used to serve the health and wellbeing of the local and visitor population in Lower Town on the sites shown in Map 17 once the facilities to be provided in the new Health and Wellbeing Centre (H&WC) at the top of town are established.

A development brief should be prepared in advance of any planning applications for these sites. The preparation of the briefs should be undertaken in such a way as to allow residents and businesses the opportunity to shape the future of the former hospital site in particular. The following requirements should be addressed in preparing the briefs: -

- The need, if still required, for the redevelopment to contribute to the funding of the new H&WC in Upper Town;
- The provision of community space capable of supporting health and social care facilities/services and first aid, particularly for the use of residents of and visitors to Lower Town;
- The massing and design of the development of the hospital site given its prominent location as part of Dartmouth's historic waterfront and Conservation Area;
- The need to respect and avoid significant harm to existing designated and non-designated heritage assets;
- The need to address flood risk particularly in respect of ground floor uses;
- Other relevant policies as contained in the Development Plan.

A key purpose of the development briefs should establish the balance to be struck between the commercial/residential market, the provision of affordable/ key worker housing, if required, and community uses.

Evidence for maintaining community provision and facilities supporting health and wellbeing in Lower Town is included in Appendix S2.

Redevelopment of the sites should be subject to a comprehensive survey of existing heritage assets and must avoid harm to these assets and protect and enhance the

historic environment as set out in national and local policy.

All proposals will be required to set out the development expectations to address flooding risk and must address level 2 and 3 flood risks; the Sequential Test must first be successfully applied. The Exception Test may also need to be applied for certain components of the proposed redevelopment. As a minimum, as well as being safe from flooding over its lifetime, development must contribute to reducing the overall flood risk of the town.

All detrimental water impacts on the river environment through surface water run off during construction and operation must be fully assessed prior to planning applications for development.

## **COMMENT**

**SHDC have raised concerns that the policy as currently worded is overly prescriptive and there is no justification for the requirement to retain a portion of the site for “health and wellbeing facilities”. I understand that there has been extensive discussion/negotiation with regard to the future of the site however those discussions fall outside the scope of this examination as do matters relating to funding.**

**For clarity and to meet the Basic Conditions, the policy should be modified as follows:**

**Policy DNP HW 1 Re-use of the former hospital site and health centre Zion Place.**

**This plan supports maintaining community provision and facilities capable of being used to serve the health and wellbeing of the local and visitor population in Lower Town on the sites shown in Map 17 once the facilities to be provided in the new Health and Wellbeing Centre (H&WC) at the top of town are established.**

**The development of briefs for these sites, in advance of any planning applications, which gives residents and businesses the opportunity to shape**

**the future of the former hospital site is encouraged. The following requirements should be addressed in preparing the briefs: -**

- The provision of community space capable of supporting health and social care facilities/services and first aid, particularly for the use of residents of and visitors to Lower Town;**
- The massing and design of the development of the hospital site given its prominent location as part of Dartmouth's historic waterfront and Conservation Area;**
- Redevelopment of the sites should be subject to a comprehensive survey of existing heritage assets and must avoid harm to these assets and protect and enhance the historic environment as set out in national and local policy.**
- Meet national policy and guidance requirements regarding flood risk ensuring that as well as being safe from flooding over its lifetime, the proposed development will contribute to reducing the overall flood risk of the town and safeguard water quality.**
- Other relevant policies as contained in the Development Plan.**

**A key purpose of the development briefs should establish the balance to be struck between the commercial/residential market, the provision of affordable/ key worker housing, if required, and community uses.**

### **Policy DNP HW 2, Community Facilities**

a) Development that results in the loss of community facilities and public spaces as outlined above in paragraphs 6.6.4-10 or that results in any harm to their character, setting, accessibility, appearance, general quality and amenity value will only be permitted if they are replaced by community facilities and/or public spaces of equal or higher quality, economic viability and value to the community or it can be demonstrated they are no longer needed.

b) New residential development will where practicable be expected to deliver new

community facilities including Open Space, Sports and Recreation (OSSR) facilities on site. On smaller sites or where this is not practicable a planning obligation will be sought to mitigate the impact of new residents through new and improved provision in an appropriate location. For OSSR facilities this should be in accordance with the priorities and projects identified in the latest SHDC and DTC OSSR Plans and SHDC's Playing Pitch Strategy.

c) Proposals that involve the use of land in the countryside to facilitate and enhance informal recreational activities and access related to the enjoyment and interpretation of the countryside will be supported where they would not have an adverse effect on the AONB, countryside, historic environment, and other land uses in the vicinity. Any proposals that improve access to existing public rights of way will be supported.

d) Proposals that promote the public awareness and enjoyment of the historic and natural environment such as heritage and nature trails will be supported. Any future development should include the appropriate enhancement of adjacent heritage and nature trails.

e) Ancillary facilities to public spaces must, where practicable, be accommodated in existing buildings. New facilities should be in keeping with their surroundings and respect policy DNP TE2(Design Quality throughout the Parish).

f) The area shaded in Map 18 is safeguarded solely for emergency and community services to serve the Parish. Other uses will not be supported.

## **COMMENT**

**This policy appears in the main to relate to open space and recreation facilities covered by Paragraphs 98 and 99 of the NPPF (2021) rather than community facilities in general, whilst also including a number of other issues. The policy should be split so that open space and recreation can be dealt with as a stand alone policy. I also note that a number of the open space and recreation facilities also appear in Policy DNP GE 3 Local Green Spaces, dealing with Local Green Space designations. In my comments on that policy I note that a number of the sites included in the proposed LGS designations list do not**

meet the criteria for LGS designation but do fit within a policy covering open space and recreation.

The open space and recreation facilities intended to be covered by this policy should be listed in the policy and clearly identified on a map to be included in the plan.

I have received representation that this policy is overly onerous. It is important when considering policy requirements that they focus on the use of land not its ownership and that a policy does not result in unreasonable restriction being placed on the appropriate use of land. I do find elements of this policy overly restrictive. For clarity and to meet the Basic Conditions the policy should be modified as follows:

## **Policy DNP HW 2. Open Space and Recreation**

The following open space and recreation facilities have been identified as having importance to the community:

- I. Victoria Road (LEAP)
- II. Collingwood Road (LEAP)
- III. Britannia Avenue/ Davis Road (LEAP)
- IV. Archway Drive (LEAP)
- V. Skate Park
- VI. Coronation Park
- VII. Leisure Centre and Indoor Pool
- VIII. Outdoor Pool
- IX. Bowling Green
- X. Norton Field
- XI. Tennis Court Rock Park Townstal
- XII. Football Ground
- XIII. North Embankment Slipway
- XIV. Warfleet Creek Slipway

### **1. Existing open space, sports and recreational buildings and land, including**

**playing fields, should not be built on unless:**

**a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or**

**b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or**

**c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.**

**2. New residential development will where practicable be expected to deliver new community facilities including Open Space, Sports and Recreation (OSSR) facilities on site. On smaller sites or where this is not practicable a planning obligation will be sought to mitigate the impact of new residents through new and improved provision in an appropriate location. For OSSR facilities this should be in accordance with the priorities and projects identified in the latest SHDC and DTC OSSR Plans and SHDC's Playing Pitch Strategy.**

**3. Proposals that involve the use of land in the countryside to facilitate and enhance informal recreational activities and access related to the enjoyment and interpretation of the countryside will be supported where they would not have an adverse effect on the AONB, countryside, historic environment, and other land uses in the vicinity. Any proposals that improve access to existing public rights of way will be supported.**

**4. Proposals that promote the public awareness and enjoyment of the historic and natural environment such as heritage and nature trails will be supported. Any future development should include the appropriate enhancement of adjacent heritage and nature trails.**

**5. Ancillary facilities to open and recreational spaces must, where practicable, be accommodated in existing buildings. New facilities should be in keeping with their surroundings and respect policy DNP TE2(Design Quality**

throughout the Parish).

### **Policy DNP HW 2a. Community Facilities**

**The area shaded in Map 18 is safeguarded for emergency and community services to serve the Parish, a change of use will only be supported if the facilities are replaced by facilities of equal or higher quality, economic viability and value to the community or it can be demonstrated they are no longer needed.**

### **Policy DNP HW3 Improved water access for recreational users.**

This plan supports new and improved access and infrastructure to the river Dart for recreational watercraft users. Improvements should be focussed at North Embankment in the vicinity of the Higher Ferry and include the following:

- a) An improved slipway on the North Embankment indicated in Map 19.
- b) The present boat storage facilities on Coronation Park should be retained and enhanced;
- c) Short term parking provision for craft and vehicles adjacent to the slipways indicated in Map 19.

### **COMMENT**

**I have no comment on this policy.**

### **POLICY DNP HW4 Education Facilities**

- a) Further development required by The Dartmouth Academy for education and sports purposes during the period of the Plan shall be supported providing such proposals meet the other policy requirements of this Plan and the JLP.
- b) Development that results in the loss of existing education facilities or causes any harm to their function, character, setting, accessibility, appearance, general quality, and amenity value will only be permitted if they are replaced by education facilities of

equal or higher quality, economic viability and value to the community or it can be demonstrated they are no longer needed.

c) The area illustrated in Map 20 encompassing the Dartmouth Academy and grounds is safeguarded solely for education and community related uses. Other uses will not be supported.

## **COMMENT**

**The wording of paragraph b) of this policy is confusing as it mixes loss of education facilities with changes to their appearance etc. In addition, the determining authority for planning applications is the LPA. For clarity and to meet the Basic Conditions, the policy should be modified as follows:**

### **POLICY DNP HW4 Education Facilities**

**a) Further development required by The Dartmouth Academy for education and sports purposes during the period of the Plan will be supported where such proposals meet the other policy requirements of this Plan and the JLP and their function, character, setting, accessibility, appearance, general quality, and amenity value is protected.**

**b) The area illustrated in Map 20 encompassing the Dartmouth Academy and grounds is safeguarded for education and community related uses. A change of use will only be supported if the facilities are replaced by facilities of equal or higher quality, economic viability and value to the community or it can be demonstrated they are no longer needed.**

## SECTION 5

### Conclusion and Recommendations

- 1. I find that the Dartmouth Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.*
- 2. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.*
- 3. The Dartmouth Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Plans in place within the Neighbourhood Area.*
- 4. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening, meet the EU Obligation.*
- 5. The policies and plans in the Dartmouth Neighbourhood Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the Development Plan. At the time of my examination, the development plan for the area is the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.*
- 6. I therefore conclude that the Dartmouth Neighbourhood Plan subject to the recommended modifications can proceed to Referendum.*

Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD

Planning Consultant

NPIERS Examiner

CEDR accredited mediator

SEPTEMBER 2022

