

**Sid Valley Neighbourhood Plan
Submission Version 2018 – 2032**

Report of Examination

May 2019

**Undertaken for East Devon District Council with the support of
Sidmouth Town Council on the submission version of the plan.**



Independent Examiner:

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Abbreviations used in the text of this report:

The Sid Valley Neighbourhood Plan is referred to as ‘the Plan’ or ‘SVNP’.

Sidmouth Town Council is abbreviated to ‘Sidmouth TC’.

East Devon District Council is abbreviated to ‘East Devon DC’ or referred to as the ‘LPA’.

The National Planning Policy Framework is abbreviated to ‘NPPF’.

The National Planning Practice Guidance is abbreviated to ‘NPPG’.

The East Devon Local Plan 2013-2031 is abbreviated to ‘EDLP’.

East Devon Area of Outstanding Natural Beauty is abbreviated to ‘AONB’.

Regulation 14 and Regulation 16 are abbreviated to ‘Reg14’ and ‘Reg16’ respectively

‘BUAB’ is an abbreviation used in the EDLP, and here, to refer to the ‘Built-up Area Boundary’.

Summary

- I have undertaken the examination of the Sid Valley Neighbourhood Plan during April and May 2019 and detail the results of that examination in this report.
- The Sidmouth Town Council and Steering Group have undertaken extensive consultation on this Plan, and it complies with legislative requirements. The Plan has proposed innovative criteria for residential development, which with the modification recommended in this report should assist the provision of housing for local need in a constrained location. The East Devon Local Plan 2013 – 2031 adopted in January 2016 provides a comprehensive strategic policy framework with the strategic policies clearly referenced.
- I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have to an extent informed some of the recommended modifications.
- Subject to the modifications recommended, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

Acknowledgements: Thanks to East Devon DC Staff, Sidmouth Town Council and the Steering Group for their assistance with this examination, and timely and flexible responses to my questions and issues raised during the Reg16 consultation. My compliments to the local community volunteers and Sidmouth Town Council, who have worked hard to produce a comprehensive and locally responsive Plan.

1. Introduction and Background

1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowered local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF) states that:

“neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Sidmouth and the Sid Valley that is the Sidmouth Town Council. Drawing up the Neighbourhood Plan was undertaken by the Sid Valley Neighbourhood Plan Steering Group, working to the Town Council.

1.2 Independent Examination

1.2.1 Once Sidmouth TC had prepared their neighbourhood plan and consulted on it, they submitted it to East Devon DC. After publicising the plan with a further opportunity for comment, East Devon DC was required to appoint an Independent Examiner, with the agreement of Sidmouth TC to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this plan. I am a Chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent

Examiners Referral Service (NPIERS). I am independent of any local connections to Sidmouth and East Devon DC, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the Plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The Plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The Sid Valley Neighbourhood Plan (SVNP) complies with the requirements of Paragraph 8(1). The Neighbourhood Area was designated on 31st March 2016 by East Devon DC. With minor changes detailed in section 4 below, the plan will not relate to land outside the designated Neighbourhood Area. It specifies the period during which it has effect as 2018 – 2032 (*Basic Conditions Statement section 1.3 states 2033 in error*) and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to Sidmouth and the Sid Valley to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

1.3 Planning Policy Context

1.3.1 The Development Plan for East Devon and Sidmouth, not including documents relating to excluded mineral and waste development, is the East Devon Local Plan (EDLP) 2013 to 2031, and the East Devon Villages Plan (EDVP), which was adopted in 2018. Strategic Policies for the purposes of neighbourhood planning and the Basic Conditions are defined in the EDLP (page 27) as those comprising Part 1 of that document. The Villages Plan has defined a Built Up Area Boundary (BUAB) for the village of Sidbury.

1.3.2 The National Planning Policy Framework (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance (NPPG) website offers guidance on how this policy should be implemented. Although the NPPF has been revised recently, that document makes clear (para 214 of Appendix 1 and footnote 69) that neighbourhood plans submitted to the LPA before 24th January 2019 will need to have regard to the previous 2012 version of the NPPF. As the SVNPs were submitted to the LPA at the end of 2018, it is the 2012 version that will apply. This is acknowledged by the Qualifying Body in the Basic Conditions Statement.

1.3.3 During my examination of the SVNPs I have considered the following documents:

- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance 2014 and as updated
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Submission version of the Sidmouth and Sid Valley Neighbourhood Plan (SVNP)
- Sid Valley Place Analysis 2018 – Evidence report accompanying the SVNPs
- Housing Needs Assessment for Sidmouth 2017 – Evidence for the SVNPs
- The Basic Conditions Statement submitted with the SVNPs
- The Consultation Statement submitted with the SVNPs
- The Strategic Environmental Assessment Screening Decision for the SVNPs
- Neighbourhood Area Designation (map)
- East Devon Local Plan 2013 – 2031: Adopted January 2016
- East Devon Villages Plan – Adopted July 2018
- St Ives Neighbourhood Plan and Evidence – Made December 2016
- Representations received during the publicity period (Reg16 consultation)

2. Plan Preparation and Consultation

2.1 Pre-submission Process and Consultation

2.1.1 The Parish of Sidmouth includes the town of Sidmouth as well as the villages of Sidbury, Salcombe Regis and Sidford, collectively known as the Sid Valley. Sidmouth is a popular seaside tourist resort, and although the town itself is excluded from the East Devon AONB, the rest of the parish and villages are wholly within it. The coastline of the Parish forms part of the Jurassic Coast, and the rural areas of the Parish are a landscape of rolling hills and lanes.

2.1.2 A Steering Group led the development of the SVNP, and comprised three town councillors and representatives from the local community, the latter selected after a call for members, by interview. A website dedicated to the SVNP, and linked to the Town Council website had minutes of Steering Group minutes and survey details and other reports were available to the community via the website.

2.1.3 The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. The Sidmouth Herald and local notice boards were used, as well as the websites, to publicise consultation events. Social media including a Facebook page and Twitter account were also used. The results and main findings from the consultation events were available online and reported to the Town Council under the terms of reference of the Steering Group and the requirement that it report back.

2.1.4 Consultation started with identifying the issues of most local importance, and developing a draft vision from this for further consultation. Household questionnaires were sent out in June 2016 and June 2017. A survey of local businesses and existing groups was undertaken in the winter of 2016/7, as well as a young people's survey. Younger children were given the option of writing or drawing how they would like the Sid Valley to be in the future. A 'Know Your Place' workshop was held to explore policies for specific issues.

2.1.5 As required by Regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the Pre-Submission Sid Valley Draft Neighbourhood Plan ran from the 28th February 2018 to the 12th April 2018. The draft Plan was available on the Town Council and SVNP websites, and sent digitally to over 100 national and local organisations, including relevant statutory consultees. Hard copies were available at the Library, the Town Council offices and East

Devon DC offices in Sidmouth. The consultation was also publicised in the Sidmouth Herald and by email to local organisations and individuals.

2.1.6 Representations were received from residents, statutory bodies and developers during the Reg14 consultation period, and several amendments have been made to the Plan as a result of constructive suggestions for changes. The tension between conserving and enhancing the landscape setting of Sidmouth, as required by its AONB designation, and the need for new housing particularly for young families, has been acknowledged. Policies in the Plan were altered to encourage some sensitive provision of affordable housing for local need. Appendix 1 of the Consultation Statement has set out comments received during the Reg14 consultation, and the Town Council response to them in detail.

2.1.7 I am satisfied that due process has been followed during the consultation undertaken on the Plan. The Consultation Statement details all consultation activities, and the record of comments and objections received during the regulation 14 consultation shows that these were properly considered, and where appropriate resulted in amendments to the plan to accommodate points raised.

2.1.8 As required, a submission version of the Plan, together with a Basic Conditions Statement, a Consultation Statement, the Screening Opinion and a plan showing the neighbourhood area was submitted to the LPA, East Devon DC, on the 19th December 2018.

2.2 Regulation 16 Consultation Responses

2.2.1 East Devon DC undertook the Reg16 consultation and publicity on the SVNP for more than six weeks due to the Christmas break, from the 21st December 2018 to the 8th March 2019. Fifteen Representations were received during this consultation, of which three statutory bodies had no specific comments to make on this Plan. A resident has offered detailed comment on the phrasing and grammar of the document. Where this impacts on the Basic Conditions (generally in the clarity of policy) I have considered the comment, otherwise I suggest the LPA and Qualifying Body may like to consider whether corrections to the Plan are needed. The LPA is also authorised to correct errors in the document that have been missed to date [Town and Country Planning Act 1990 Schedule 4B section 12(6)]. Comments from the AONB Partnership, suggest minor changes to the document that

are not Basic Condition issues, but the LPA and Qualifying Body may like to consider the suggestions for better description and updating the Management Plan reference in their final review of the text. A local resident has identified what they feel is an inaccuracy in the Place Analysis (Fig 102), and the LPA has also identified minor corrections needed for accuracy in the text.

2.2.2 I have considered all of the other comments received at Reg16 carefully as well. Where issues they raise are pertinent to my consideration of whether the Plan meets the Basic Conditions, they are considered in sections 3 and 4 of this report below.

3. Compliance with the Basic Conditions Part 1

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the SVNP has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area; and
- Be compatible with and not breach European Union (EU) obligations including the habitats basic condition (2017 as amended) and comply with human rights law.

3.2 The Basic Conditions Statement states that a key aim of the Plan is to promote social sustainability and the housing and economic needs of the younger generation due to the current over-representation of older people in the population. The Plan is also prioritising the environmental requirements of the area's inclusion in the East Devon AONB. I accept that the Plan does contribute to sustainable development in line with the Basic Conditions.

3.3 A screening opinion has been issued by East Devon DC which considers whether Strategic Environmental Assessment (SEA) and/or Habitat Regulations Assessment (HRA) are required for the SVNP. These environmental requirements in EU law are the main EU Directives that neighbourhood plans need to comply with. The Screening Report states in the Introduction that:

“The conclusion of the assessment is that the Plan is unlikely to have a significant effect on the environment so an SEA is not required. It is also unlikely to have a negative impact on any Natura 2000 sites so should not be subject to HRA.”

3.4 The SVNP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the consultation statement showed that the need to consult with a wide cross-section of the community was appreciated.

4. Compliance with the Basic Conditions Part 2: National Policy and the Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the SVNPP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF (2012) and the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan. The phrase 'general conformity' allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended.

Modifications are boxed in this report, with text to *remain in italics*, new text **highlighted in Bold** and text to be deleted ~~shown but struck through~~. Instructions for alterations are underlined.

4.3 The Plan has many proposed Community Actions, and these are listed at the end of each topic section of the Plan. The NPPG is clear that although neighbourhood plans may incorporate non-landuse community actions, these must be located away from the main body of the text either as an annex or separate document (ID: 41-004-20190509). At present they are too enmeshed within the document, and this could be confusing, especially as they are numbered and several are dealing with landuse issues.

4.4 I have considered whether it is for this examination to engage with Community Actions that are dealing with landuse issues, some of which are set out in similar ways to policies in the Plan. Issues such as support for affordable self-build homes (H0 01) and low carbon construction (BN 01) could have been incorporated into policy or the text of the main document. However as the Community Actions are not part of the development plan, and therefore not required to meet the Basic Conditions, I will not be dealing with the detail of them in any recommended modification, beyond requiring that they are removed from the main document, as shown in Modification 1:

Modification 1: I recommend that to comply with government guidance in the NPPG and thus the Basic Conditions, the Community Actions need to be more clearly differentiated from the landuse policies of the SVNP and the Plan. They should be removed from their current location at the end of each topic section and formed into a separate annex to come at the end of the document after the Glossary of Terms and Web links.

4.5 Policy 1: Sid Valley Development Principles The Policy has been criticised for not being positive and allocating sites, contrary to the Basic Conditions. However neighbourhood plans do not have to allocate residential sites, and the policy does state that it encourages appropriate development and aims to be positive in its approach. East Devon DC suggest that the use of the abbreviation 'BUA' should be consistent with the abbreviation used in the mapping 'BUAB'. This is not a Basic Condition issue, but could be amended as an error if required. The policy meets the Basic Conditions therefore.

4.6 Policy 2: Protection of Key Views I have asked supplementary questions regarding this policy and the identified views, as a result of which View 8 will be deleted as it is taken from outside of the neighbourhood area. It is useful for particularly special views to be identified, as this clarifies a general aspiration to maintain views. I do not accept the comment that AONB designation renders the policy unnecessary and not needed therefore. In the case of the Sid Valley, the views are often spectacular, and a key part of the visitor and resident experience of the landscape.

4.6.1 Aspects of the policy are however either unclear or not reasonable. The 'relationship of settlements in the valley surrounded by hills' needs to clarify that this is a visual relationship. The requirement that 'building heights should not normally be higher than neighbouring properties', by reason of the panoramic nature of many of the views over the town of Sidmouth, could be applied to any development in the town. This is not reasonable, is not supported by adequate evidence of need for the restriction as required by the NPPG (ID: 41-041-20140306). It also pre-judges the acceptability of any planning application and does not include issues of level differences on any site. Similarly the requirement for visual impact of a development proposal is only reasonable for development outside of the BUAB, otherwise it would apply to every application in Sidmouth. In

order that Policy 2 meets the Basic Conditions and has regard to government guidance I recommend that it is modified as shown in Modification 2.

Modification 2: Policy 2 to be amended as follows:

*“Any development must not cause a significant adverse impact on the current valued views as shown in the Key Views Map 8. The **visual** relationship of settlements in the valley surrounded by hills should be protected. ~~building heights should not normally be higher than neighbouring properties.~~ Except when development will not be visible from the viewpoints, **proposals outside of the BUAB** must demonstrate that they will have a low or negligible impact on the views, assessing:*

a) the key views from outside the BUAB which are 1, 2, ~~8~~ and 9

b) the key views from within the settlements to the surrounding AONB or the Coastal Protection Areas (CPA) which are 3,4,5,6,7 and 10;

Views to be re-numbered to accommodate the removal of view 8.

4.7 Policy 3: Settlement Coalescence and Green Wedges Several comments at Reg16 have noticed the disconnect between the map showing a ‘coalescence area’ and the policy referring to ‘green wedges’. I have questioned this with the Qualifying Body, and they agree that the policy should refer to a ‘non-coalescence area’ for clarity. This will also avoid confusion with Green Wedges in the Local Plan. The evidence for the policy has been questioned, but Sidbury is a free-standing village within the AONB with a tight development boundary. Its setting needs to be rural, and the proximity of Sidford and the BUAB renders the area sensitive to any development that would impact on the relatively narrow strip of countryside separating the settlements at this point.

4.7.1 The policy as worded is stating that no development will be acceptable within the designated non-coalescence area. This would provide a degree of protection that would exceed Green Belt designation, and is too negative. Some development may be acceptable, and the policy instead needs to focus on development maintaining the visual and physical separation of Sidbury and Sidford. In order to comply with the Basic Conditions with regard to national requirements for policy to be clearly understood (NPPF para154), and for neighbourhood plans to be positive (NPPG ID: 41-005-20190509), I recommend that Policy 3 is amended as shown in Modification 3.

Modification 3: Policy 3 to be reworded as follows:

POLICY 3 SETTLEMENT COALESCENCE ~~AND GREEN WEDGES~~

~~There will be a presumption against any built~~ **Any development proposal within the 'Green Wedges' Sidford-Sidbury Non-Coalescence Area shown on ~~the~~ Map 10 will only be acceptable if it does not impact on the visual and physical separation of Sidford and Sidbury.**

4.8 **Policy 4: Green Corridors** The policy as currently drafted has errors with the placing of bullet points, and for clarity this will need correcting. I have agreed with the Qualifying Body that the borders of the corridors should coincide with the Environment Agency's floodzone 3, and Figures 11 and 12 will need amending therefore. Again the policy cannot state that there will be a presumption against any built development for reasons of being positive as required by the NPPG. Developers and others need guidelines in policies as to what is not acceptable, and why, so that what may be acceptable can be determined. In order that Policy 4 meets the Basic Conditions, I recommend that it is amended as shown in Modification 4.

Modification 4: Policy 4 to be amended as follows:

The Environment Agency Flood Zone 3 of the River Sid and tributaries; the Green Goyle and Woolbrook Stream in the Neighbourhood Area are defined as Green Corridors as shown on Maps 11 and 12. ~~There will be a presumption against any built~~ Development within the ~~areas shown on the Green Corridors Map other than alterations and extensions within the Green Corridors area where they are supported by alternative planning policy, including flooding considerations.~~ will be required to maintain and where possible enhance the biodiversity of the corridor and allow uninterrupted passage of wildlife.

Other text to be deleted.

Maps 11 and 12 to remove reference to Flood Zone 2. Detail from the Sid Valley Place Analysis Figures 19 and 20 could be added for clarity with regard to the Green Corridors.

4.9 Policy 5: Local Green Space Designation The Plan proposes to designate twelve Local Green Spaces (LGS) in Sidmouth, two in Sidbury and one in Salcombe Regis. During the course of the examination I have requested further information on the reasons for designation, together with clearer plans of the boundaries of these spaces. This has been provided, and will need to be included in the Plan. I am satisfied that all of the proposed designations meet the requirements of the NPPF. The Manstone Recreation Ground is less immediately important visually, and not of particular beauty, but it is an important recreation facility in a location where there is little other open space, and is a historic bequest to the town.

4.9.1 With the further details of the LGS sites inserted in the Plan, the reference to the Open Space Study within the Policy will not be necessary. The LPA has pointed out that some development can enhance a LGS, and the 'presumption against all development' needs to be qualified in this regard in order that the Plan is not unduly and unhelpfully negative. For the clarity required by the NPPF and the Basic Conditions therefore, boundaries of any site designation need to be shown clearly within the Plan. Policy 5 and supporting text is recommended to be revised as shown in Modification 5 in order that it meets the basic conditions.

Modification 5: Policy 5 to be amended as follows:

*"The following areas are designated as Local Green Space as shown on the Sidmouth LGS Designation **Maps (13-21)** below, where there will be a general presumption against all development **that does not promote the attributes and use for which it was designated** except in very special circumstances.*

~~Specific areas designated as Local Green Spaces are listed in the East Devon District Council Open Space Study Review 2014 <http://eastdevon.gov.uk/planning-libraries/evidence-document-library/chapter8.4-environment/env046-openspacestudyreview2014.pdf> and additional areas since this report are included below:~~

Local Green Spaces in the Sid Valley:

Include List as shown in Policy 5 ...

Maps of each LGS, supporting text detailing the reasons for designation, and the revised justification text, to be inserted in the document after Policy 5. The existing table may remain or not, I do not see it as necessary now, but this is not a Basic Conditions issue. Other maps and references to them will need to be re-numbered.

4.10 Policy 6: Protected Open Spaces I raised a conflict between this policy and Policy 5 with the Qualifying Body, as the areas designated as LGS were also included within this policy. Duplicating designations in both policies would have confused users of the Plan as to what level of protection was intended with the LGS. Discussion on this point has led the Qualifying Body to suggest that Policy 6 is deleted. Open Space is protected in the EDLP, and the policy is not offering any new guidance. I agree that this is a sensible solution, and recommend that in order that the Plan has the clarity required by the NPPF and NPPG (ID: 41-041-20140306), and does not duplicate policy, it is deleted.

<p>Modification 6: <u>Policy 6 'Protected Open Spaces' to be deleted. Policies to be re-numbered to allow for this.</u></p>
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4.11 Policy 7: Infill Development, Extensions and Trees Complies with the Basic Conditions.

4.12 Policy 8: Local Distinctiveness This policy promotes as evidence, work undertaken by a group of people with a range of relevant qualifications: the 'Place Analysis'. It is good practice to include authors on a study like this, and it adds weight to the evidence. The question was raised in Reg16 comment, and I recommend that the Place Analysis includes acknowledgement of the authors, in order to further demonstrate the robustness of this evidence and that it meets the Basic Conditions and the requirements of the NPPG in this regard. An inaccuracy in Figure 102 in the Place Analysis has been noted previously.

4.12.1 Policy 8 has a missing 'the' before 'character' in the first sentence. The LPA is concerned that requiring 'building heights should not normally be higher than neighbouring properties' is difficult in a context like Sidmouth Parish with sloping sites. I see this requirement as overly prescriptive, contrary to the requirements of the NPPF (para59). The alternative wording suggested by the LPA is more flexible.

4.12.2 In order that Policy 8 meets the Basic Conditions with regard to demonstrated robust evidence and design guidance that is not too prescriptive, I recommend that the policy wording, and the Place Analysis document, are altered as set out in Modification 7.

Modification 7: Policy 8 and the Place Analysis are to be amended as follows:

The final paragraph of Policy 8 to read as follows:

*“Building heights should **be in keeping with the context of** ~~not normally be higher than~~ neighbouring properties. “*

The Place Analysis document to include the authors of the report, and their qualifications.

4.13 Policy 9: Light Pollution The LPA has queried the clarity of ‘settlement areas’ and this can be usefully improved in order that the Basic Conditions are met with regards to policy clarity. Given that any settlement outside the BUAB of Sidmouth is within the AONB, it is reasonable that the policy applies outside of the BUAB. Although ‘overwhelming operational requirement’ has also been questioned, I am content that this demonstrates any proposed outdoor lighting would need to be justified in terms of a serious need essential to the use of the premises or site.

Modification 8: I recommend that Policy 9 is amended as shown in order that it meets the Basic Conditions with regard to clarity:

*“There will be a general presumption against all outdoor lighting (both ambient and floodlight) outside the ~~settlement areas~~ **BUAB**, unless there is overwhelming operational requirement and the illumination has been designed to minimise light spillage and the hours of usage are restricted by planning condition.*

4.14 Policy 10A: Residential Development This policy has been objected to by Developers in that it is too restrictive and there are sites suitable for development now. However Policy 10A complies with strategic policy in the EDLP and the stricter landscape requirements of the AONB, and I am satisfied it complies with the Basic Conditions.

4.15 Policy 10B: Exception Sites Sidmouth PC have commissioned a Housing Needs Survey for the Parish, which forms part of the evidence base. It calculates that there is likely to be a significant unmet need for affordable housing in Sidmouth (page 3), and that there is an affordability problem (para 5.13 page 57). Furthermore the report calculates that the housing allocation for Sidmouth will not meet the objective assessment of need (paras 5.32 – 5.33). This is likely to be due to Sidmouth being a constrained location for development; with the sea on one side, and the AONB surrounding the town on the other boundaries.

4.15.1 Strategy 35 in the EDLP allows for exception site housing provision outside the BUAB of villages and small towns with a population less than 3,000. Policy 10B is proposing to implement a similar policy but for Sidmouth, a town with a population of over 13,000 people. I accept that evidence has been provided of additional need for affordable housing, and as long as Policy 10B follows the other provisions of Strategy 35, I consider that it is in general conformity with strategic policy – while adapting it to the evidenced needs of Sidmouth. Strategy 7 in the EDLP allows for neighbourhood plan policy to permit development in the countryside where it does not harm landscape and other qualities of the countryside.

4.15.2 There are however aspects of Policy 10B as currently drafted that do not comply with the strategic policy Strategy 35 and are not in ‘general conformity’. East Devon DC has objected that the policy has no size limit, and in the absence of this I propose that Policy 10B should include the limit in Strategy 35. Policy 10B also needs to be clear that it is exception sites that are being allowed, a requirement for Strategy 35 as well as development in the AONB. The LPA has also objected to a strict local occupancy condition being applied to any market housing, and this would be unduly onerous for dwellings whose purpose is to improve the viability of the exception site development. A formula has been agreed between the LPA and the Qualifying Body during this examination whereby a local occupancy condition will be required for market housing on an exception site, unless viability issues are shown to render it an unreasonable restriction on development. In this way I consider the revised policy to be in general conformity with strategic and national policy.

4.15.3 Additionally I am proposing that Policy 14 on Principal Residency be added to the requirements of this policy, I explain my reasons for this below in para 4.19. In essence it is reasonable, and evidence supports the policy operating in this restricted arena. Exception sites are only allowable if they are providing for local need, and it is reasonable to exclude the possibility of

holiday accommodation being developed on any market housing allowed outside of the BUAB to facilitate affordable housing provision.

4.15.4 I recommend that Policy 10B is amended as shown in Modification 9 in order that it complies with the Basic Conditions with regard to being in general conformity with the Development Plan and has regard to national policy.

Modification 9: Policy 10B to be amended as follows:

~~The Exception site residential development of land which lies immediately adjacent to the built-up area boundary and is well related to the pattern of adjacent developments in the vicinity will be allowed if it complies with the requirements of this policy and provides for no more than 15 dwellings at any one site. provides for the specific housing needs of persons resident of or connected to the settlements within the plan area~~

~~Such Exception site developments will be required to include at least 66% affordable housing and all the housing whether market or affordable must be of a type and size required to meet local housing need as set out in SVNP Housing Policy 12. Affordable housing and must be accompanied by a Planning Obligation requiring that occupants must meet the local connection criteria set out in SVNP Housing Policy 13. Market housing will also be expected to be accompanied by a Planning Obligation requiring occupants to meet the local connection criteria set out in SVNP Housing Policy 13, unless it is demonstrated that such a restriction would prevent the delivery of the affordable housing through its impact on the economic viability of the scheme.~~

~~Any new open market housing will be required to be restricted to being used as a Principal Residence and not as a 'second home', in that the occupier shall be required to use it as their main residence regardless of who owns the Freehold.~~

~~Such development will only be allowed where it is demonstrated that the development will not detrimentally impact on the setting of the town or the landscape quality of the AONB and it meets all other relevant policies in the development plan. and Its design and layout will be expected to follow the characteristics of the adjacent Character areas, as set out in the Place Analysis.~~

4.16 **Policy 11: Affordable Housing** This policy is very similar to strategy 34 in the EDLP, but there is enough local detail that I do not consider it just repetition. The LPA have requested, and the Qualifying Body have agreed, that the stipulation regarding payments in lieu of affordable housing in the AONB should apply to between 6 and 9 units. As this will comply with LPA guidance, the change is needed in order that Policy 11 meets the Basic Conditions.

Modification 10: I recommend that the final paragraph of Policy 11 is amended as follows in order that it complies with the Basic Conditions and is in conformity with strategic guidance for the development plan:

“.....On sites in the AONB schemes of between 6 and ~~9 to~~ units a financial contribution equivalent to a 50% site affordable housing provision will be expected to be made in lieu of on-site provision of affordable housing.”

4.17 **Policy 12: Housing by Number of Bedrooms** The policy has been rightly criticised as too inflexible: it does not currently comply with the requirement of the NPPF (para 50) that policies dealing with housing mix should be flexible enough to take account of changing market conditions. The proposed numbers are based on the evidence of the Housing Needs Survey, a reasonably up to date report, and I accept that they reflect an adequate evidence base.

4.17.1 In order that the policy has the flexibility required by national policy, and complies with the Basic Conditions, I recommend that it is amended as shown in Modification 11:

Modification 11: The first paragraph of Policy 12 to be amended as follows:

*All new developments of 11 or more homes **should** ~~must~~ meet the following requirements:*

*The percentage of one, two and three/four bedrooms homes on any development shall be as follows **unless up to date housing need evidence demonstrates an alternative mix would better suit local needs:....***

4.18 Policy 13: Local Connection The policy appears to have re-written the local connection requirements of Strategy 35 in the EDLP in a way that would allow it to apply to both market and affordable housing. However as explained in para 4.15.2 of this report, it is not acceptable to require local occupancy on market housing that is being provided to aid viability, and Policy 10B now has a viability clause allowing opt-out if required for viability reasons. The NPPF (para 173) also requires policy burdens to not unreasonably threaten viability. In order that Policy 13 applies to the affordable housing on any exception site, and thus complies with the Basic Conditions with regard to conformity with the development plan and the NPPF, I recommend that it is amended as shown in Modification 12 below.

Modification 12: Policy 13 to be amended as follows:

~~Apart from sites promoted under SVNP Housing Policy 10 B, the eligibility for affordable housing will be administered by EDDC as the Housing Authority. The definition of local need is therefore laid down by the Council's Allocation Framework. However, priority will be given to people who can demonstrate a local connection to the parish of the Sid Valley in the first place. In this policy,~~

For the purposes of allocating housing provided for local need on exception sites as allowed by Policy 10B, a local connection will be required which means one or more of the following connections in respect of the Sidmouth Town Parish area:

- 1. Persons who have been permanently resident in **Sidmouth Town Parish** for a continuous period of three years out of five years, immediately prior to their occupation of the new dwelling;*
- 2. Have been formerly permanently resident therein for a continuous period of five years at some time in the past;*
- 3. Having his or her permanent place of work (normally regarded as 16 hours or more a week and not including seasonal employment) within the Sidmouth Town Council area for a continuous period of at least 12 months immediately prior to the occupation of the new dwelling; **or***
- 4. Persons who can demonstrate a close family connection to the Town Council area in that the person's mother, father, son, daughter or sibling has been permanently resident there for a continuous period of five years immediately prior to the occupation of the new dwelling and where there is independent evidence of a caring dependency relationship.*

4.19 Policy 14: Principal Residency As discussed above, the policy is reasonable when applied to exception sites outside of the BUAB where local connection and local housing need have to be the main reason for the development. However I have considered the evidence for holiday accommodation as a problem in Sidmouth, and do not find it generally compelling enough to apply a principle residency policy throughout the Parish. The Plan refers to the St Ives policy, but in St Ives the evidence from the 2011 Census shows over 25% of households have no usual resident, which is the clearest indicator of property used for holiday lets, although it will include vacancies and other instances leading to 'no usual resident'. This compared with a figure for England as a whole of just over 4%. The figure for Sidmouth Parish is nearly 11%, and it is reasonable to estimate that 8% of dwellings in the Parish are second homes or holiday lets from this data, as the SVNPs does.

4.19.1 That there is an emerging problem in Sidmouth is adequate evidence for the policy to be applied in the exception site Policy 10B, where local housing need is the reason for the exception to policy. However the scale of the problem is not yet at a level where applying the requirement to the entire Parish is justified and it would amount to an unacceptable policy burden contrary to the NPPF.

Modification 13: In order that the SVNPs meets the Basic Conditions with regard to complying with national policy on proportionate evidence and policy burdens, I recommend that Policy 14 be deleted.

The Policy 14 justification paragraph to be moved to the justification for Policy 10B and altered as follows:

2nd sentence: *"The Neighbourhood Plan is anxious that ~~any~~ new housing built in the plan area should be used for providing homes for persons to live in on a permanent basis."*

Final sentence: *"...Where the supply of new **market** housing is ~~limited~~ **provided on an exception site it is important, given the limited development locations in Sidmouth, that it be retained in a way that has the greatest also benefits for those in the need for primary residence housing need locally.***

Policy numbering to be altered as required.

4.20 **Policy 15: Park and Ride** The policy has been criticised as it will be in the AONB and thus adversely affect it. However the policy is not allocating a site, and includes requirements that there is no adverse impact on the AONB. The policy complies with the Basic Conditions.

4.21 **Policy 16: Shared Use Paths** Complies with the Basic Conditions.

4.22 **Policy 17: New Retail and Commercial Development** Complies with the Basic Conditions.

4.23 **Policy 18: Facilitation of Home Working** Complies with the Basic Conditions.

4.24 **Policy 19: Employment Land** Complies with the Basic Conditions.

4.25 **Policy 20: Renewable Energy and Low Carbon Energy Projects** Complies with the Basic Conditions.

4.26 **Policy 21: Protection and Enhancement of Community Facilities and Assets** The policy complies with the Basic Conditions, but reference to the 'Salcombe Regis Scout Hut' needs to be referenced rather than the current listing of 'Salcombe Regis Scout Field' for accuracy. This is not however a Basic Conditions issue. The listing of 'The Bowd', referring to a local pub on the As052, is acceptable.

4.27 **Policy 22: A Safe Town** The policy has the support of Devon and Cornwall Police, but the LPA regard it as too inflexible. Safety is not the only consideration in assessing a development proposal, and in line with the NPPF (para 58) requirement that design guidance is not too prescriptive, I recommend that the policy is amended as shown in Modification 14 in order that it meets the Basic Conditions and has regard to national planning policy.

Modification 14: Policy 22 to be amended as follows:

~~All Proposals for new developments should consider the conform to the 'Secured by Design' principles and incorporate them where possible. and the Neighbourhood Plan will support~~
Development proposals aimed at improving community safety which comply with other policy in the development plan will be supported.

4.28 **Policy 23: Eastern Town Redevelopment** Complies with the Basic Conditions.

4.29 **Policy 24: Eastern Town Access** The policy has been criticised by the LPA for being onerous in an area with existing good links. It is not unreasonable to want to maintain these links, but improvements should be required 'where possible' in order not to be too burdensome a requirement and contrary to policy in the NPPF. The last sentence of the policy is dealing with highway matters not land-use, and so cannot form part of the policy. The sentence and explanation could be moved to the justification text if required. In order that Policy 24 meets the Basic Conditions and has regard to national policy and the need to deal with land-use issues I recommend it is amended as shown in Modification 15 below.

Modification 15: Policy 24 to be amended as follows:

*“Any development of Eastern Town will be expected to demonstrate via an access strategy how the scheme will **maintain, and where possible improve**, the cycle pathway linkages with the town centre and the wider area. The existing levels of car parking spaces will be retained unless alternative parking is provided which is equally accessible to the town centre.*

The development will be expected to provide high quality environmental and public realm enhancements to the immediate area. ~~Vehicular access to and from the Esplanade turning circle should be restricted to service vehicles, coaches and boat trailers.~~

4.30 **Policy 25: Eastern Town Maritime Heritage** Complies with the Basic Conditions.

4.31 **Policy 26: Eastern Town Community Assets** The policy has been criticised as being too prescriptive by the LPA, and it is potentially placing excessive burdens on any development of the site, contrary to the requirements of national policy (NPPF para 173). In order that the policy complies with the Basic Conditions and has regard to national policy I recommend that it is amended as shown in Modification 16.

Modification 16: Policy 26 to be re-worded as follows:

~~Any development~~ **Redevelopment** ~~of the Eastern Town site will be expected~~ **is encouraged** to retain and/or replace all current community assets, including: The Ham recreation ground, swimming pool and the public toilets. Any such redevelopment will be expected to include a flexible multi-use area capable of acting as a community events space, and/or a flexible cultural /performance space, with catering (bar/restaurant). Developments which enhance the above buildings and/or uses will be supported.

5. The Referendum Boundary

5.1 The Sid Valley Neighbourhood Plan has no policies or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the Sid Valley Neighbourhood Plan 2018 – 2032 shall be the boundary of the designated Neighbourhood Area for the Plan.