

WAREHAM NEIGHBOURHOOD PLAN

RESPONSE TO EXAMINER'S QUESTIONS

1.08.2019

QUESTIONS TO DORSET COUNCIL	ANSWERS
1. The development plan for the area covered by the Plan, not including documents relating to waste and minerals, is the Purbeck Local Plan Part 1 (the Local Plan) adopted in 2012. Is that correct?	Yes, the correct Development Plan is Purbeck Local Plan Part 1.
2. Policy E of the Local Plan seeks to safeguard employment sites across the District. Is this a strategic policy? If it is, would the proposal in the Plan (H5 and H6) to allocate housing on what are now employment sites be in general conformity with Policy E?	The Neighbourhood Plan Steering Group sought advice on this from a QC who has stated " <i>There is a defensible argument that policies on employment land safeguarding are non- strategic</i> ". The Counsel's advice was submitted with the examination documents. The Council is happy to provide another copy if required. The emerging Purbeck Local Plan currently at Examination proposes to remove the safeguarding from the employment sites at Westminster Road and Johns Road in the area identified in the most recent proposed modifications to the Wareham Neighbourhood Plan housing allocations.
3. The Local Plan is currently under review. The Purbeck Local Plan 2019 (the emerging Local Plan) has reached an advanced stage and is now at examination. Is that correct?	Purbeck Local Plan 2019 Submission version was submitted at the end of January 2019. The first set of hearing sessions was held at the beginning of July with a second set of hearing sessions scheduled for the first full week in August.
4. Has there been any objection to the proposal in Policy V2 of the emerging	Four objections were received to Policy V2 questioning whether any green belt should be released. The only specific objections to releasing the site west of

Local Plan to delete land to the west of Westminster Road, Wareham from Green Belt?	Westminster Road was received from the Wareham Neighbourhood Plan Steering Group, requesting that the Council identify areas suitable for release and allow the Neighbourhood Plan to make the changes. Circumstances have changed and the Neighbourhood Plan are requesting modifications to the allocations in their Plan which means they would no longer require the release of green belt.
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<p>5. Table 1 Summary of Potential Housing Delivery sets out an estimate of the number of dwellings that could be delivered by the various housing sites allocated in the Plan. Included in this are the sites West of Westminster Road (H4); at Westminster Road (H5); at Johns Road (H6).</p> <p>One of these sites (H4) is, for reasons which I understand, not allocated in the Plan but is dependent on land in Green Belt being released through the emerging Local Plan. In an attempt to establish whether or not there is a reasonable prospect of this happening, I have asked Dorset Council whether there have been any objections to this proposal.</p> <p>As to the remaining two sites (Sites H5 and H6), these are dependent on</p>	<p>With regard to Table 1 (page 21 of the Wareham Neighbourhood Plan Submission Draft), since this was submitted, plans for one of the sites (the former Wareham Middle School) have progressed and now 90 dwellings are proposed on this site rather than 35. I have amended table 1 accordingly (see below).</p> <table><tr><th colspan="3">Neighbourhood Plan Potential Housing Delivery (revised)</th></tr><tr><th>Site</th><th>Dwellings</th><th>Notes</th></tr><tr><td>Westminster Rd Industrial Estate (H5)</td><td>30</td><td>Mostly vacant and underused units on southern part of Westminster Road</td></tr><tr><td>Johns Road (H6)</td><td>15</td><td>Former engineering works north of Johns Road</td></tr><tr><td>Hospital/Health Centre site (H8)</td><td>45</td><td>Subject to relocation of health facilities</td></tr><tr><td>Former Middle School site (GS2)</td><td>90</td><td>Extra care housing / keyworker housing / affordable housing in association with proposed health hub</td></tr></table>	Neighbourhood Plan Potential Housing Delivery (revised)			Site	Dwellings	Notes	Westminster Rd Industrial Estate (H5)	30	Mostly vacant and underused units on southern part of Westminster Road	Johns Road (H6)	15	Former engineering works north of Johns Road	Hospital/Health Centre site (H8)	45	Subject to relocation of health facilities	Former Middle School site (GS2)	90	Extra care housing / keyworker housing / affordable housing in association with proposed health hub
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the provision of Suitable Alternative Natural Green Space (SANG). It has not proved possible to agree a Statement of Common Ground with the owner of this SANG regarding its provision. Indeed, the representatives of that owner have pointed out that *'The provision of a SANG is a complex and expensive matter and insufficient evidence is currently available as to the ability of the proposed allocations H5 and H6 to make a significant financial contribution towards its delivery'*.

With these points in mind I would welcome the Town Council's comments on whether these sites are deliverable or developable in the meaning of those terms used in footnotes 11 and 12 to paragraph 47 of the National Planning Policy Framework and, in particular, whether sufficient SANG land can be procured or provided for these sites?

Cottees site (H9)	10	Planning permission granted for 9 units and development commenced
Former Gasworks site (H7)	10	Shortly to be released for development by National Grid
Windfall	100	Assume 66% of average small sites windfall development of 10 dwellings p.a. over 2003-17
Total	300	

With the additional dwellings now proposed on the Middle School site, 300 dwellings could be delivered by the Neighbourhood Plan without the need to develop H6 (West of Westminster Road). As explained in the Neighbourhood Plan, in view of the multiple ownerships involved at Westminster Road and Johns Road it is expected that only some 30 dwellings would be delivered at Westminster Road and only some 15 are expected at Johns Road. The proposals map allocations for these sites have been reduced accordingly to cover the land most likely to come forward for housing development. This would mean some 45 dwellings north of the railway line, under the 50-unit limit above which a SANG is required. It would therefore be feasible for this number of dwellings to be delivered with a contribution towards mitigation through a Heathland Infrastructure Project (HIP) rather than through the provision of a SANG.

For sites south of the railway line discussions have taken place with Henry Scott owner of a SANG at Bog Lane, Stoborough, south of Wareham which has spare capacity with some enhancement to accommodate the mitigation required for these sites. A letter confirming the availability of this site is attached.

Regarding the Health Hub (GS2) and Hospital (H6) NHS England has awarded NHS Dorset CCG Estates and Technology Transformation Fund (ETTF)

	<p>funding for a new build Wareham Primary Care Centre to replace the existing Health Centre and a Memorandum of Understanding has been signed between Dorset Council (who own the former Middle School site GS2) and NHS Dorset to deliver the Health Hub and release the former Hospital site for development. Dorset Council is currently consulting on the masterplan for the development of the site. It is considered therefore that site GS2 is deliverable and site H6 which will be released on completion of the Health Hub is developable.</p> <p>The former Gasworks Site H7 is shortly to be released for development by National Grid Property Holdings Ltd. It previously had planning permission for remediation and decontamination works in 2006 (ref 6/2006/0005) and planning permission in 2012 for 13 dwellings (ref 6/2012/0223). This site is therefore considered developable.</p> <p>Cottees Site (H9) has recently received planning permission for 9 dwellings (ref 6/2018/0611) and clearance of the site in preparation for development has commenced. This site is therefore deliverable.</p> <p>With regard to other aspects of the deliverability of sites (H5 and H6) both sites are suitable for housing development since they adjoin existing housing areas. We understand that one landowner owns three 3 units at the southern end of Westminster Road and he is currently preparing to make an outline planning application for the development of this site for housing. AECOM prepared a viability study which demonstrated the viability of developing the two industrial estates for housing. It is expected that Johns Road will come forward in the longer term but still within the 15 year plan period. These sites are therefore developable.</p>
<p>6. Policy E of the Purbeck Local Plan Part 1 seeks to safeguard employment sites across the District. Two of the housing sites (H5 and H6) proposed in the Plan are covered by</p>	<p>The argument is set out in Legal Advice prepared for Wareham Town Council by Sasha White QC in October 2018 (see attached). An extract from this Advice can be found below:</p>

<p>this policy. Paragraph 3.4.11 of the Plan states that <i>“There is a defensible argument that policies on employment land safeguarding are non- strategic”</i>. Where is this argument set out?</p>	<p><i>“there is a defensible argument that policies on employment land safeguarding are “non-strategic policies”,This is explained as follows:</i></p> <p><i>18.1. NPPF2 (see paragraphs 17 to 30) provides that “strategic policies” cannot be made in neighbourhood plans, but “non-strategic polices” can be.</i></p> <p><i>18.2. “Non-strategic policies” are “more detailed policies for specific areas, neighbourhoods or types of development” and “can include allocating sites” (see paragraph 28 NPPF2).</i></p> <p><i>18.3. There is a good argument that policies safeguarding individual sites for employment use are such “more detailed policies for specific areas”. We note that there is no explicit reference in NPPF2 that employment land policies are “strategic policies” (unlike in relation to Green Belt policies).</i></p> <p><i>18.4. Support can be found in paragraphs 119 and 120 of NPPF2 which encourage plan-making bodies to bring forward land for different development needs and that land should be reallocated if there is no prospect of an application coming forwards and there is a need for other uses. We note that the District Council has referred to there being a surplus of employment land in the District3; if there is a sound evidence base showing this then the Town Council could draw on this evidence base to show why Westminster Road Industrial Estate and Johns Road should be de-allocated for employment and re-allocated for mixed-use residential.</i></p> <p><i>18.5. We note that further support can also be found in paragraph 118(c) and 118(d) of NPPF2, which provide that policies should give weight to the value of using brownfield land and promote the development of under-utilised land and buildings.</i></p> <p><i>18.6. Paragraph 30 of NPPF2 provides that the non-strategic policies in a neighbourhood plan will take precedence over existing non-strategic policies</i></p>
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	<p><i>in a local plan covering the neighbourhood area, where they are in conflict. Accordingly, if it can be successfully shown that the employment land safeguarding policies are “non-strategic policies”, then Policies H5 and H6 will take precedence over the relevant employment land safeguarding policies in the current Local Plan.</i></p> <p><i>19. On the basis of the analysis above, if Policies H5 and H6 were amended to take out the reference to the emerging Local Plan, and instead H5 and H6 re-allocate the sites for mixed-use residential on the basis of a sound evidence base as to why the employment safeguarding is no longer justified, then there are good prospects that this would be a defensible position at examination. “</i></p> <p>Evidence on Employments Needs is set out in the Employment Needs Assessment prepared for the Town Council and referred to in answer to question 7 below. As stated, the Purbeck Local Plan currently at Examination no longer safeguards these sites for employment, whilst it continues to safeguard Sandford Lane, the Town’s most modern and larger employment site.</p>
<p>7. Reference is made in the representations by Carter Jonas to a report and an updated report by Vail Williams on the long term future of Westminster Road Industrial Estate. Where will I find these reports?</p>	<p>The report by Val Williams can be found on the link below Annexe A https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/purbeck/local-plan-review-purbeck/pdfs/matter-g-redacted-submissions-6-2019-06-13.pdf</p> <p>AECOM has undertaken a Viability Assessment for Wareham Town Council which demonstrates the viability of developing Westminster Road Industrial Estate (see link below)</p> <p>https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/purbeck/neighbourhood-planning-purbeck/pdfs/in-progress/wareham/war</p> <p>Dorset Planning Consultants have prepared an Employment Needs Assessment for the Wareham Town Council which concludes that the allocation</p>

	<p>of Westminster Road and Johns Road Industrial Estates for development are justified.</p> <p>https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/purbeck/neighbourhood-planning-purbeck/pdfs/in-progress/wareham/employment-needs-review-180712.pdf</p>
<p>8. The Habitats Regulation Assessment for the Wareham Neighbourhood Plan dated February 2019 recommends a number of changes to the policy and text of the Plan (see Section 6). Does the Town Council accept these recommendations? If so, what is the wording of these changes and has this wording been agreed with Natural England, Dorset Council and, where appropriate, the representatives of the owner of the proposed SANG?</p>	<p>The Habitats Regulations Assessment was delayed due to the Court of Justice of the European Union releasing a judgment known as People over Wind (Peter Sweetman v Coillte Teoranta (C-323/17)). This judgment has significant implications for the Habitat Regulations Assessment process, particularly the manner in which mitigation measures can be taken into account, which the Ministry of Housing Communities and Local Government considered within the specific context of HRA for Neighbourhood Plans. MHCLG instructed AECOM not to progress any Neighbourhood Plan appropriate assessments, including that for Wareham. Having waited for some time for a ruling the Steering Group decided to proceed with submission of the Neighbourhood Plan in advance of the completion of the HRA with the intent that any recommendations would be taken on board at the next stage. We therefore intend to incorporate the relevant recommendations included and set out in the recommendations and conclusions (Section 6) of the HRA. The amendments are incorporated within the Schedule of Proposed Changes to the Neighbourhood Plan, July 2019. Those referring to sites H5 and H6 have been overtaken by the amendment to the Policies Map to restrict the allocations to a total of 45 dwellings.</p>
<p>9. Policy PC1 states categorically that the surface level crossing across the railway will be retained. Whilst this crossing is clearly an important footpath and cycle link, its retention is not supported by Dorset County Council, by Network Rail or by South Western Railway who variously argue that the use of the crossing is granted by way of a lease; that this lease will</p>	<p>There has been a road in the position of the railway crossing since Roman times. When the railway was built in 1847 cars and pedestrians continued to use this level crossing as the only route into Wareham town centre from the north. Clearly at this time the route was a public right of way. In 1980, when the nearby vehicular only flyover was constructed as part of the Wareham bypass, the vehicular crossing was closed but pedestrians have continued to use the crossing. The stopping up order made by Dorset County Council mistakenly extinguished pedestrian as well as vehicular rights of way. A lease was therefore taken out by Dorset County Council to try and rectify this mistake and allow pedestrians to continue to cross at the crossing. This has resulted in the</p>

not be renewed because of the risk it poses to safety; that the crossing is not a permanent right of way as Policy PC1 infers; that the use of the crossing prevents the use of sidings to the east of Wareham Station; and that suitable alternative bridge based options are under discussion. With these points in mind, is the Parish Council in a position to say that this crossing will be retained rather than saying that the retention of this crossing will be supported?

status of the pedestrian crossing becoming a permissive rather than a public right of way. The Stopping Up order states “as respects each highway the stopping up of which is authorised by the Order, that **another reasonably convenient route is available or will be provided before that highway is stopped up**”.

There has been the threat of closure of the crossing by Network Rail on a number of occasions and it has even been debated in Westminster Hall at 11am on 28th October 2009 when Annette Brook MP raised the issue in Parliament stating that *“The proposed closure of the Wareham station pedestrian level crossing was devastating news for my constituents. The situation is complex...”* In conclusion Parliamentary Under Secretary Chris Mole stated *“Safety concerns are of great importance, but the severance of communities and reducing accessibility to key transport routes are no less so. On that basis, I encourage Dorset County Council and Network Rail to ensure that all appropriate options, in both the short and the long term, are considered for the future of the crossing and that safety, accessibility and community needs of Wareham are appropriately provided for.”*

The proposed closure of Wareham Level Crossing is probably one of the biggest issues faced by the town in the past 50 years. Clearly public safety is of great concern and so too is the severance of the local community. Half of the town’s population of about 6,000 live on the north side of the railway yet all schools, shops, recreation and health facilities are on the south side. There is only one pedestrian route between the two and this involves the level crossing.

In November 2017 advice was sought from Sasha White QC regarding the threat of closure of the crossing. The Advice stated that *“if Network Rail close the Level Crossing when the 1988 Lease expires and refuse to provide alternative step free access, while still failing to have due regard to the effects on those with protected characteristics, it is highly likely that a court would find that Network Rail have acted unreasonably and contrary to their duties under the Equality Act.”* (a copy of this advice is attached).

	<p>There have been 3 planning applications for the provision of a ramped bridge to replace the level crossing. The first application was approved but it proved impossible to construct due to the physical constraints of the site. Two further applications were made for a similar ramped bridge but both were refused for sound planning reasons. The adjoining railway land to the east has recently been developed for housing and the constraints on the land adjoining the crossing are such that it has proved not possible to provide a ramped bridge of sufficiently low gradient to cater adequately for the disabled in the space now left.</p> <p>With regard to the use of the sidings to the east of the railway crossing, the Neighbourhood Plan proposes that the bay platform to the north east of the Station would better provide for this rather than adding more rail traffic across the railway crossing.</p>
<p>I have read the Town Council's response to a number of these points on page 40 and 41 of the Consultation Statement and note that reference is made to legal advice indicating that this policy meets the Basic Conditions. Where will I find that advice?</p>	<p>I attach a copy of the Legal Advice</p>
<p>10. Several of the Local Green Spaces proposed in Policy GS1 appear to be in Green Belt (site D, part of site H and sites L and M). In addition, sites H and O are Scheduled Monuments, sites L and M are in the Area of Outstanding Natural Beauty and site N is in the</p>	<p>NPPF (2019) para 99 states that:</p> <p>“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...” Para 100 states that “The Local Green Space designation should only be used where the green space is:</p> <ul style="list-style-type: none"> a) in reasonably close proximity to the community it serves;

<p>curtilage of a listed building. Given that these sites are already protected by these designations, what additional local benefit would be gained by designating them as Local Green Spaces?</p>	<div data-bbox="814 191 1877 375" data-label="List-Group"> <ul style="list-style-type: none"> 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 </div> <div data-bbox="766 412 1877 776" data-label="Text"> <p>In identifying Local Green Spaces the Steering Group was mindful of including those open spaces most valued by local residents. As you correctly point out, a number of the valued green spaces identified by local residents already have protection. However, in order to show that the Neighbourhood Plan had been listening to residents and to include those open spaces that residents most value we decided to include these as well. We also consider that there is merit in bringing together in one document the open spaces that are protected to ensure that there is no confusion if some of the most valued open spaces are not mentioned in the Neighbourhood Plan. This will reassure residents who will use the Plan for reference that these spaces are fully protected.</p> </div> <div data-bbox="766 813 1514 849" data-label="Text"> <p>With regard to the particular open spaces referred to:</p> </div> <div data-bbox="766 886 1877 1179" data-label="Text"> <p>Site D -Northmoor Park Allotments. (Green Belt) The existing protection would allow for relocation of the allotments. However, users of the allotments have invested a great deal of time, effort and materials into improving these facilities over many years and the existing site is ideal in terms of security and accessibility. It would be difficult for a new site to offer the same level of facility as the existing and designation as a Local Green Space would provide the extra protection needed to protect this valued local green space. Local residents want to protect them where they are.</p> </div> <div data-bbox="766 1216 1877 1391" data-label="Text"> <p>Site H -Wareham Town Walls Ancient Monument (Ancient Monument and partially within Green Belt) Whilst Ancient Monument status does provide some protection for the Town Walls its designation doesn't provide for public accessibility and only part of the scheduled site covers the green space. Likewise, only part of the green space</p> </div>
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	<p>site lies within the Green Belt. This green space is vitally important to local people and one of the key distinctive features of the Town. The Walls date from the Saxon period and are some of the best-preserved Saxon earthworks in Western Europe. As they form a single continuous and highly valued green space and well used perimeter walk around the historic Town and it considered that the whole of The Walls as shown on the proposals map should be designated Green Space.</p> <p>Site L -Bestwall Allotments (AONB) The existing protection would allow for relocation of the allotments. However, users of the allotments have invested a great deal of time, effort and materials into improving these facilities and the existing site is also ideal in terms of security and accessibility. It would be difficult for a new site to offer the same level of facility as the existing and designation as a Local Green Space would provide the extra protection needed to protect this valued local green space which is conveniently located in close proximity to people's homes.</p> <p>Site M -Rugby Club (AONB) The existing protection would allow for relocation of the rugby club. However, users of the playing fields have invested a great deal of time, effort and materials into improving these facilities and the existing site is also ideal in terms of accessibility. It would be difficult for a new site to offer the same level of facility as the existing and designation as a Local Green Space would provide the extra protection needed to protect this valued local green space.</p> <p>Site N -War Memorial (Curtilage of Listed Building) Making this a Local Green Space would give added protection as a public open space to this valued green space which would not be afforded by being in the curtilage of a listed building.</p> <p>Site O -Castle Close (Scheduled Ancient Monument)</p>
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	Whilst Ancient Monument status does provide some protection being designated as a Local Green Space would provide added protection as valued open space.
In the interests of transparency, may I prevail upon you to ensure a copy of this letter is placed on both the local authority and Town Council websites.	Yes, we have arranged for this letter to be put on the Wareham Neighbourhood Plan and Town Council websites.

1st August 2019