

Rode Parish Council

**Rode
Neighbourhood Plan
2015 - 2030**

Independent Examiner's Report

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7 March 2017

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Summary

I have been appointed as the independent examiner of the Rode Neighbourhood Development Plan.

The Plan takes a straightforward approach to its presentation. It has a well-defined, simple, but appropriate vision and associated priorities for the Parish. Policies cover a range of topics from heritage to open spaces, community services to transport related issues and includes particular support for housing suitable for older people.

Further to consideration of the Plan and its policies I have recommended a number of modifications that are intended to ensure that the basic conditions are met satisfactorily and that the Plan is clear enabling it to provide a practical framework for decision-making.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Mendip District Council that the Rode Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI
Ann Skippers Planning
7 March 2017



1.0 Introduction

This is the report of the independent examiner into the Rode Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Mendip District Council (MDC) with the agreement of the Rode Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

2.0 The role of the independent examiner

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).

The examiner is required to check¹ 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.

¹ Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

The basic conditions² are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood plan
- The making of the neighbourhood plan contributes to the achievement of sustainable development
- The making of the neighbourhood plan is in general conformity with the strategic policies contained in the development plan for the area
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and is:

- The making of the neighbourhood plan is not likely to have a significant effect on a European site³ or a European offshore marine site⁴ either alone or in combination with other plans or projects.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.⁵

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Mendip District Council. The plan then becomes part of the 'development plan' for the area and

² Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

³ As defined in the Conservation of Habitats and Species Regulations 2012

⁴ As defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

⁵ The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

3.0 Neighbourhood plan preparation and the examination process

A Consultation Statement has been submitted which meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012. In particular I welcome the subsections throughout the document titled “how were these results reflected in the neighbourhood plan?” and found these very useful.

The Consultation Statement explains that the engagement process has been designed to keep the community and other stakeholders involved throughout the five-year period of Plan production. The depth and breadth of engagement has included three village-wide surveys with commendable response rates, public meetings, focus groups with those unable to attend or less likely to participate at public meetings and a series of one-to-one interviews with landowners and older people. The Plan has built on earlier work for a Parish Plan.

The community has been kept involved through ‘door drops’ to each home, a tried and tested method in Rode, a Facebook page, articles in the village’s magazine, The Link and through regular report backs to monthly Parish Council meetings.

The Consultation Statement explains the process has evolved.

It is clear that the community has been actively engaged in the selection of sites for both development and protection and that landowners have been involved.

A Housing Needs Survey was carried out in November 2013 supported by the Community Council of Somerset and MDC and achieved a 37% response rate.

A consultation on four possible sites for housing was undertaken in March 2015. A booklet was delivered to each household so that residents could review the sites put forward by landowners. An open day was held with over 250 people attending. The landowner or their representatives attended and nearly 400 responses were subsequently received; 44% of all registered Rode electors. Over half objected to any more housing and all four sites were rejected. Merfield House had the most support at 31% and they were invited to revisit their proposal so that it related to only brownfield development for seniors.

Pre-submission (Regulation 14) consultation took place between 15 January – 29 February 2016. As well as a presence on the Village website and Facebook and hard copies available in the Village Café, a leaflet drop to each house explained how to access copies of, and comment on, the draft Plan. The Consultation Statement lists those making representations and their comments and the response to them. It does so in a clear and accessible way.

I consider there has been excellent engagement with, and feedback to, the community throughout the process.

Submission (Regulation 16) consultation was carried out between 1 September –14 October 2016. The Regulation 16 stage attracted seven representations from different people or bodies and I have considered and taken them all into account in preparing my report.

A letter from Tetlow King dated 18 January 2017 was also received. It drew my attention to the Written Ministerial Statement (WMS) of 12 December 2016 and requested a hearing be held. I asked MDC to acknowledge the letter reassuring Tetlow King that I was aware of the WMS and would decide whether a hearing was necessary or not as part of my usual examination assessments.

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).⁶ PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.⁷ Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further additions or amendments are required.

PPG explains⁸ the general rule of thumb is that the examination will take the form of written representations,⁹ but 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. After careful consideration of all the documentation and representations, I decided that neither circumstance applied and therefore it was not necessary to hold a hearing.

I made an unaccompanied site visit to Rode and the neighbourhood plan area on 17 February 2017.

4.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

Qualifying body

Rode Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is satisfactorily met.

⁶ PPG para 055 ref id 41-055-20140306

⁷ *Ibid*

⁸ *Ibid* para 056 ref id 41-056-20140306

⁹ Schedule 4B (9) of the Town and Country Planning Act 1990

Plan area

The Plan area is coterminous with the Parish administrative boundary. Mendip District Council approved the designation of the area on 8 April 2013. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Parish and Plan area is clearly shown on page two of the Plan.

Plan period

The Plan covers the period 2015 – 2030.

Excluded development

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also usefully confirmed in the Basic Conditions Statement (BCS).

Development and use of land

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be moved to a clearly differentiated and separate section or annex of the Plan or contained in a separate document. This is because 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.¹⁰ Subject to any such recommendations, this requirement can be satisfactorily met.

5.0 The basic conditions

Regard to national policy and advice

The main document that sets out national planning policy is the National Planning Policy Framework (NPPF) published in 2012. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood

¹⁰ PPG para 004 ref id 41-004-20140306

Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.¹¹

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.¹²

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at planningguidance.communities.gov.uk. The planning guidance contains a wealth of information relating to neighbourhood planning and I have had regard to this in preparing this report.

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.¹³

PPG indicates that a policy should be clear and unambiguous¹⁴ to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.¹⁵

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.¹⁶ It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.¹⁷

The BCS sets out how the Plan has responded to national policy and guidance through a table which discusses each policy, highlights the most relevant paragraphs from the NPPF and contains a short commentary.

Contribute to the achievement of sustainable development

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole¹⁸ constitutes the Government's view of what sustainable development means in practice

¹¹ NPPF paras 14, 16

¹² *Ibid* para 184

¹³ *Ibid* para 17

¹⁴ PPG para 041 ref id 41-041-20140306

¹⁵ *Ibid*

¹⁶ *Ibid* para 040 ref id 41-040-20160211

¹⁷ *Ibid*

¹⁸ NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.¹⁹

The BCS contains Table 3 which assesses each individual policy in the Plan in terms of economic, social and environmental factors. It makes the valid point that there are some 'neutrals' and a 'negative', but that overall a balance has been struck. The table is a simple, but effective and helpful assessment.

General conformity with the strategic policies in the development plan

The development plan consists of the Mendip District Local Plan 2006 – 2029 Part I (LPI) adopted on 15 December 2014 and saved policies carried forward from the Mendip District Local Plan 2002.

The Local Plan is currently being prepared in two parts; Part II is currently being prepared and will identify specific sites guided by the principles set out in Part I. An Issues and Options Consultation was published in September 2015 and a preferred options report is anticipated later this year. The Parish Council has taken this emerging document into account during the preparation of the Plan.

In the LPI, Rode is identified as a “primary village”; somewhere with at least a primary school, a community venue, a shop and a bus service. Most of daily needs can be met locally and there is a realistic transport alternative to the private car to access services and employment. Core Policy 1 explains that new development that is tailored to meet local needs will be provided in such villages.

The emphasis is on maximising the reuse of previously developed sites and other land within existing settlement limits, then at the most sustainable location on the edge of the settlement. Outside the settlement limits, development is strictly controlled and is only permitted where it benefits economic activity or extends the range of facilities available to the local community.

Until the Local Plan Part II is finalised, the development limits from the Local Plan 2002 have been carried forward.

Table 2 in the BCS outlines the most relevant LPI policies, mapping them against each policy in the Plan with a short commentary on conformity. The BCS also confirms that the relevance of saved policies in the Local Plan 2002 are that the settlement boundary has been taken forward with revisions to reflect current circumstances.

European Union Obligations

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic

¹⁹ NPPF para 7

Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

PPG indicates that it is the responsibility of local planning authorities to ensure that the Plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive) when it takes the decision on a) whether the Plan should proceed to referendum and b) whether or not to make the Plan.²⁰

Strategic Environmental Assessment

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004.

A Screening Statement dated February 2016 has been submitted. MDC has assessed the draft Plan and has determined that a SEA is not required. The requisite consultation with the statutory consultees was undertaken. Both Natural England and Historic England concur with the screening statement and no response was received from the Environment Agency.

EU obligations in respect of SEA have been satisfied.

Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is also of relevance to this examination. A Habitats Regulations Assessment (HRA) identified whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.²¹ The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

Through the same screening process carried out in February 2016, MDC has confirmed that a HRA will not be required. Natural England concurs with this assessment.

A representation from Somerset County Council (SCC)²² points out that there are Special Area of Conservation (SAC) bat foraging areas in the vicinity of Rode and querying the HRA assessment as being both incorrect and incomplete. The representation points out that the River Frome to the south and west of Rode village is a strategic flyway for greater horseshoe bats from the Mells Valley SAC and probably provides a route to and from the Bath and Bradford Avon SAC roosts. Helpfully SCC has reviewed the Plan with

²⁰ PPG para 031 ref id 11-031-20150209

²¹ *Ibid* para 047 ref id 11-047-20150209

²² Representation from Somerset County Council of 5 September 2016

regard to potential effects on these SACs and, whilst seeking some amendment to the HRA assessment, concurs with its conclusions.

In view of this and because PPG indicates that it is ultimately the responsibility of the local planning authority to ensure the Plan is compatible with EU obligations, I consider it would be prudent for MDC to review the HRA once a decision has been taken on what modifications be made to the Plan.

In regard to this examination of the draft Plan in relation to Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) which sets out a further basic condition in addition to those set out in primary legislation as detailed in section 2.0 of this report, in my view the Plan complies with this basic condition.

European Convention on Human Rights (ECHR)

The BCS contains a short statement about fundamental rights and freedoms guaranteed under the ECHR and confirms the Plan complies with the Human Rights Act 1998. There is nothing in the Plan that leads me to conclude there is any breach of the Convention or that the Plan is otherwise incompatible with it.

6.0 Detailed comments on the Plan and its policies

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in *bold italics*.

The Plan is very well presented. It has an eye-catching front cover, a helpful contents page and is clearly laid out and as a result is easy to read and use. Policies are clearly differentiated in a different coloured text. Overall the Plan has a simple, but effective approach to its presentation.

1. Introduction and Background to the Neighbourhood Plan

This clearly worded section contains useful information about the planning context for the Plan setting out why and how the Plan has developed.

It refers to the version of the Plan I have been asked to examine (submission V1 August 2016) as the Regulation 14 draft as it indicates that changes will be made before submission and other submission documents produced. I regard this as an easily made oversight that this part of the Plan has not been updated. Therefore some natural updating will of course be needed as the Plan proceeds to its latter stages.

The recognition of the need to review the Plan and the commitment to monitor it every three years is welcome and I regard this as good practice and commend it to others.

2. Introduction to the Village of Rode

This is a well-worded section that sets the scene for the Plan and contains the right balance of information.

3. Vision and Objectives

The vision for Rode is:

“To nurture the unique character, assets and community engagement of the village of Rode into the future.”

The vision is underpinned by three objectives. All relate to the development and use of land and are clearly articulated.

Five priorities are then set out. Again all are clearly articulated and are relevant in the context of neighbourhood planning.

4. Housing Policies

Policy 1 Housing Sites

Section 4.1 sets out the background to the set of housing policies. It explains that the LPI, which provides for at least 9,635 dwellings to 2029, classifies Rode as a “primary village” and therefore a 15% increase in housing numbers over the LPI period is needed which equates to 65 houses. LPI Core Policy 2 requires an additional 505 dwellings in Mendip in locations to be identified in the emerging Local Plan Part II. Although a representation expresses concern that as the Local Plan Part II will identify the sites for the additional dwellings and is not yet settled and therefore there is no certainty the Plan can conform to the development plan, PPG is clear that neighbourhood plans can be developed or come forward before a Local Plan is in place.²³ Up to date evidence should be shared by the local planning authority and collaborative working is encouraged. In this case, MDC confirm that the Plan is in conformity with the LPI Core Policy 2.

Whilst I note the plan periods for the LP and the (neighbourhood) Plan differ, the Plan states that this number has already been exceeded through completed schemes and

²³ PPG para 009 ref id 41-009-20160211

existing planning permissions. The Plan explains that Rode has experienced more development than any other similar Mendip village in the period 2002 – 2008.

Policy 1 indicates that the two sites will provide for the housing need identified in the LPI. The two sites, Church Farm and Lower Street, are clearly shown on Map 1 which is cross-referenced in the policy. Both sites have in any case the benefit of planning permission. In answer to a query, I am informed that Church Farm was granted outline planning permission for 44 dwellings, employment use and associated works in 2012. The site at Lower Street has permission for eight dwellings.

I am concerned about the wording for this policy because it is definite that the two sites will provide for the need identified in the LP. It does not however indicate any figures or delivery mechanisms and could be interpreted as inflexible. Nevertheless if this policy allocates the sites in case the extant permissions lapse for some reason, it will provide more certainty. A rephrasing will however address my concern and ensure that the policy meets the basic conditions by boosting housing supply in line with the NPPF and taking account of strategic policies in the LPI.

- **Replace the words “will provide” in the policy with “are expected and are allocated to provide”**

Policy 2 Housing for the Elderly at Merfield House

A Housing Needs Survey by MDC and a further one carried out more recently as part of the evidence gathering for this Plan in 2013, amongst other things, showed a need for accommodation suitable for older people. The Plan stresses it is the suitability of such accommodation rather than the affordability (although still important) which is key to this Parish. As a result, this policy supports the reuse of Merfield House and its outbuildings, for this type of housing. I do not consider the ‘singling out’ of this type of housing is at the expense of meeting other identified local housing needs; it simply highlights a potential contribution to this particular type of housing.

Information in the AECOM Site appraisal for the Rode Neighbourhood Plan Final Site Appraisal Report of June 2015 (hereafter referred to as the AECOM Report) indicates that after the initial site assessment, a further option emerged from the landowner of Merfield House as an alternative to site RODE017 (which had been assessed initially).

This site was included in the subsequent village consultation exercise and some support for development at Merfield House was expressed.

As a result the site was assessed as part of the next stage. The AECOM Report indicates that a comparison of Merfield House with the other sites assessed at this stage is “a little misleading”²⁴ as the consultation did not gather opinion on that option only.

²⁴ AECOM Site appraisal for the Rode Neighbourhood Plan Final Site Appraisal Report June 2015 page 14

However, it concludes that “the development of Merfield House is at least comparable to the other sites in terms of objective site criteria”.²⁵ It also recognises the status of Merfield House as a Grade II* listed building.

Whilst this option came about later in the day and there are arguably some individual criteria that I may have personally weighed differently from the AECOM assessment, I consider that there is sufficient justification for this quite specific policy to be included in the Plan. I consider the Housing Needs Survey to have underestimated the need given the well documented need to provide housing for older people given the generally anticipated increase in the number of households over 65.²⁶ I also note that LPI Policy DP14 refers to local needs and exceptionally permits care home or similar specialist accommodation outside development limits where there is clear justification. LPI Policy DP22 supports the reuse or conversion of rural buildings outside defined development limits subject to various criteria. LPI Policy DP3 which refers to heritage conservation will also apply.

Merfield House is an imposing building with a number of outbuildings served by a long drive off Straight Lane. Whilst it is located outside the development limits, it is close to the village and visually relates to it well. I requested a Map of the site for my site visit.

The policy has four criteria. There are three which I consider need modification. The first criterion seeks to ensure that development respects Merfield House and its curtilage. Given its status as a listed building this is important. For me the criterion does not go far enough to ensure that this designated heritage asset is suitably conserved. The setting of any listed building, which can be more than its curtilage, is also important and recognised in the NPPF. The recommended modification will also help to address MDC’s concern that such development may not be acceptable in heritage terms. In addition I recommend the inclusion of some supporting text that highlights the importance of this heritage asset more.

The second refers to the establishment of a management trust. I do not consider this to be a development and use of land matter. This can however be moved to the supporting text.

The third is that “safe pedestrian egress” be provided from the junction of Straight Lane with Crooked Lane. Both Lanes are identified as “country lanes” and subject to Policy 8 of this Plan. Whilst I do not consider there is necessarily any internal conflict between the two policies, I saw at my site visit it would be difficult to provide such a link and to do so without destroying the essence of the country lanes. There may be other options or solutions such as providing a footpath parallel to Straight Lane in the adjoining fields, subject of course to any landowner agreement. For this reason a modification to add flexibility to this criterion is made.

Small changes to the use of the phrase older people rather than the elderly are recommended to reflect the terminology used in national policy and guidance.

²⁵ AECOM Site appraisal for the Rode Neighbourhood Plan Final Site Appraisal Report June 2015 page 14

²⁶ PPG para 021 ref id 2a-021-220160401

Subject to the recommended modifications, I consider the policy will provide a positive strategy for this listed building as well as encouraging much needed housing for older people.

- **Change the reference in the policy's title to "the elderly" to "older people"**
- **Change the reference in the policy "the elderly" to "older people"**
- **Change criterion one to read: "The status of Merfield House, *its curtilage and its setting* as a grade II* listed building shall be respected by any development proposals."**
- **Delete criterion two from the policy, but include it as supporting text**
- **Change criterion three to read: "Safe pedestrian egress is *encouraged* to be provided from the site to the junction of Straight Lane with Crooked Lane *subject to satisfactory visual and highway safety impacts. Innovative solutions will be encouraged.*"**
- **Add a new paragraph to the supporting text as paragraph 4.2.3 to read: "As *Merfield House is a Grade II* listed building, it will be important to ensure that any proposals are discussed at an early stage with the Parish Council, Mendip District Council and that the advice of Historic England is sought.*"**
- **Consequential renumbering of paragraphs will of course be needed**

Policy 3 Housing for the Elderly

The supporting text explains it is anticipated that the District will experience an increasing older population from 26% to 37% of households. The Rode Housing Needs Survey showed a 35% or so increase in people of retirement age in Rode, above both the national and Mendip averages. For this reason, and bearing in mind the results of the community engagement, it is understandable that the Plan includes a specific policy on housing for older people.

Policy 3 aims to support housing suitable for older people. On schemes over five dwellings, the policy seeks compliance with a number of design guidelines. The policy also refers to local needs. Whilst the supporting text explains priority should be given to those with a local connection, the policy does not follow this 'allocation' through. I consider that this point is better suited to the supporting text.

There is however no explanation for the six or more dwelling threshold and I can see no reason why all development should not be encouraged to follow the design criteria set

out. This is because PPG explains the need to provide housing for older people is critical given the anticipated increase in the number of households over 65.²⁷

LPI Policy DP14 which encourages a mix of housing type and size also does not make such a distinction. In addition Policy DP14 exceptionally allows care homes or similar specialist accommodation outside development limits in certain circumstances. Policy 3 reflects this at a local level retaining the reference to scale both in terms of need and in relation to the locality.

Furthermore support for older people to remain living independently and safely in their own home for as long as possible or to move into more suitable accommodation is key. The Plan makes the point that this often allows houses to become available that would otherwise be underoccupied.

Two criteria, the fourth and seventh, refer to internal space standards and energy efficiency respectively. The Government announced in a Written Ministerial Statement (WMS) of 25 March 2015, that it is not now appropriate to refer to any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings in neighbourhood plans. I consider the wording of both criteria do not set any additional standards but merely reflect those that already exist and seek, rather than require, them. For these reasons, and because of the flexibility of the wording in the policy, I consider they can remain as currently worded.

Small changes to the use of the phrase older people rather than the elderly are recommended to reflect the terminology used in national policy and guidance.

- **Change the reference in the policy's title to "the elderly" to "*older people*"**
- **Delete "...of six dwellings or more..." from the third paragraph of the policy; the supporting text should be revised to reflect this modification**
- **Change the reference in the policy "the elderly" to "*older people*"**

Policy 4 Design of Buildings and Public Space

Policy 4 sets out a number of design principles. It is designed to ensure that a high standard of good design is achieved and this is in line with the NPPF. The NPPF indicates that good design is a key aspect of sustainable development, referring to both buildings and spaces.²⁸ The policy is also supported by, and makes reference to, the Rode Conservation Area Appraisal and the Rode Character Assessment. This latter document forms part of the evidence base developed for the Plan.

²⁷ PPG para 021 ref id 2a-021-220160401

²⁸ NPPF Section 7

LPI Policy DP1 refers to the maintenance and enhancement of local identity and distinctiveness. Proposals should be formulated with regard to the built and natural context including views, boundary treatments and other features that generate a distinct sense of place. LPI Policy DP7 refers to the design and amenity of new development. This policy reflects the two most relevant LPI policies adding a local dimension to them.

As a result this policy will help to achieve sustainable development.

Criterion g. of the policy refers to “significant views identified in the Rode Character Assessment”. There is no mention of “significant views” in that document although a number of views are identified and indeed some are depicted on Figure 13 and views are referred to in G9 within that document. Criterion h. also refers to “views into and out of the village”. There needs to be clarity as to what views Policy 4 refers to and where these are identified. A modification is therefore made to address this.

SCC has suggested an additional criterion to help to ensure that new development is appropriate for its location. This would both be in line with the NPPF²⁹ and also reflect local circumstances. I therefore recommend its addition.

There are two additional minor word modifications just for accuracy and completeness.

- **Add a new criterion g. which reads: “*Does not introduce a sensitivity to light, noise, air/water pollution or amenity consistent with its use that would be in conflict with any reasonable expectation of impacts arising from existing permitted development, and*”**
- **Renumber subsequent criteria**
- **Insert the word “*Area*” between “...the Rode Conservation...” and “...Appraisal...” in criterion a. of the policy**
- **Change criterion d. to read: “*Is sympathetic to the significance of any heritage asset and its setting and*”**
- **Change criterion g. to read: “*Respects and does not detract from views of particular merit identified in the Rode Character Assessment at Figure 13; and*”**
- **Delete “...and on views into and out of the village” from criterion h.**

²⁹ NPPF para 120

Policy 5 Settlement Boundary

The preamble to this policy explains that the existing settlement boundaries were established in the LP 2002. The Plan proposes an updated settlement boundary to reflect the planning permission granted in the intervening period on the Church Farm site. The new settlement boundary is shown clearly on Map 1 and in one other place (an area near Clay Lane and Church Lane) expands the settlement boundary, but does so in a pragmatic and reasonable way.

There is, however, a difference between the settlement boundary on Map 1 in this Plan and the LP1 of concern. Map 1 does not show a small separate area around The Miller's House and environs. This should be reinstated on Map 1.

The policy is worded simply; inside the area, development is generally accepted and outside the area the land is regarded as "open countryside" and subject to the relevant development plan policies. It is to be welcomed that the opportunity has been taken to update the boundary and the policy is clear in its intent. I consider the policy takes account of national policy and guidance and reflects the stance in LPI Core Policy 1 which, amongst other things, explains that development in the open countryside will be strictly controlled, but may be permitted in line with Core Policy 4 which in turn seeks to sustain rural communities.

There is a typo to correct in that the policy refers to the boundary being shown in blue and on Map 1 it is in red.

- **Change the word "blue" in the policy to "red"**
- **Add the small, separate area around The Miller's House and environs and as shown on the adopted Proposals Map in LPI to Map 1**

Policy 6 Protection of Local Heritage

Rode has two Conservation Areas, 74 listed buildings and 10 listed churchyard monuments. This policy covers those assets of more local importance. These are identified in the Plan and clearly and helpfully shown on Map 2. The list of some ten historic features does not constitute a 'local list'; rather the policy seeks to protect and conserve them. Subject to a change to the wording to reflect the NPPF's differentiation between the significance of different types of heritage assets, the policy will meet the basic conditions. This modification will also better reflect LPI Policy DP3 which refers to the significance of such assets and the balance between any harm caused and any public benefits that might outweigh the harm caused.

- **Change the first sentence of the policy to read:**

“The following heritage features, listed below and shown on Map 2, are of local historic importance. Any development proposal which may directly or indirectly affect the significance of these assets including their retention, will be required to have regard to the scale of any loss or harm caused and the significance of the heritage asset including to the local community.” [retain existing list of features]

5. Community and Transport Policies

Policy 7 Traffic Calming

Policy 7 seeks to ensure that development proposals take every available opportunity to provide more sustainable transport modes and safer travel. It is worded clearly and accords with the NPPF’s stance on promoting sustainable transport. It reflects the aims of LPI Policy DP9 which refers to the transport impact of new development.

For me, the title of the policy does not reflect the policy’s aims very well and for this reason I recommend the title is changed to provide a more practical framework for decision making as I consider this policy could be missed as being of relevance because of its title.

- **Change the title of Policy 7 to “*Promoting Sustainable and Safe Travel*”**

Policy 8 Rights of Way and the Pedestrian and Cycle Network

The Plan explains that two national routes pass through the Parish and there is a desire to promote a better network to encourage more visitors to the Parish. This would be in line with the NPPF’s support for more sustainable modes of transport and also encourage healthy communities. It reflects the aims of LPI Policy DP9.

The policy identifies five “country lanes” and seeks to ensure that the characteristics that make the use of rights of way and country lanes attractive are protected and enhanced. It then seeks new development to contribute to enhancing the network. Finally Appendix 1 of the Plan sets out priorities for improvements on a map.

The policy is clearly worded and meets the basic conditions. As a result, no modifications are recommended.

Policy 9 Parking

Recognising the higher than average levels of car ownership that Rode has and the likelihood of residents using the car because of the specific characteristics of the Parish and the availability of alternative methods of transport, the policy requires new development to accord with Somerset County Council's parking standards. This mirrors LPI Policy DP10 which refers to the Somerset Countrywide Parking Strategy.

Whilst this assumes the County Council standards will continue to exist and be suitable for the Parish, given the commitment to monitor the Plan, I consider the wording of the policy is appropriate. The policy meets the basic conditions and therefore it is not necessary for me to recommend any changes.

Policy 10 Community Facilities and Assets of Community Value (ACVs)

The preamble to the policy sets out how important community facilities are. It points out that, as yet, no ACVs have been designated but the policy will apply to these when the time comes and eight other specified community facilities.

The policy introduces a presumption against redevelopment or change of use of these facilities. However, the policy does have flexibility as it refers to the provision of alternative facilities of an equivalent or better standard or where the viability of the facility cannot be sustained and marketing has been carried out. It also supports development that enhances such facilities.

The NPPF promotes the retention and development of local services and community facilities. LPI Policy DP17 seeks to safeguard community facilities. This policy is in line with national policy and guidance and reflects LPI Policy DP17 and has sufficient flexibility to ensure that a prosperous rural economy is achieved.

The ordering of the policy would benefit from a change so that it is set out more logically and therefore provides a more practical framework.

- **Move paragraph two which begins "Proposals that sustain or extend the value of..." to the end of the policy**

6. Green Environment

Policy 11 Sites of Local Ecological Importance

Three sites of local ecological importance have been identified and are shown clearly on Map 3. One area is the Frome River banks and the other two churchyards. This policy

seeks to protect and enhance these areas for their biodiversity and wildlife. It takes account of the NPPF which seeks to identify and map local ecological networks and to minimise the impact on biodiversity and provide net gains where possible. It also reflects LPI Policy DP5 which seeks to protect, enhance and restore ecological networks and biodiversity in the District and adds a local layer of detail to it assisting with its objectives.

The policy is incidentally incorrectly referred to as Policy 14 in paragraph 6.1.1 and in the interests of accuracy this should be remedied.

- **Change the reference to “Policy 14” in paragraph 6.1.1 to “Policy 11”**

Policy 12 Local Green Spaces

Policy 12 seeks to designate six areas of Local Green Space (LGS).

The NPPF explains that LGSs are green areas of particular importance to local communities.³⁰ The effect of such a designation is that new development will be ruled out other than in very special circumstances. Identifying such areas should be consistent with local planning of sustainable development and complement investment. The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about LGSs is given in PPG.

All six proposed LGSs are clearly shown on Map 4. I visited each on my site visit and discuss each in turn.

The **Recreation Ground**. This area is identified as an open space subject to LPI Policy DP16 which resists the loss of such space unless there is an excess of recreational space in the settlement or a suitable alternative is provided. At the time of my visit this area was well used. It has play equipment, picnic area, football posts as well as an associated pavilion and car park.

At the time of my visit, most of **Browns Ground** was being grazed by sheep. There is a footpath to its easternmost boundary which links the southern boundary of the area along Church Lane to the northern boundary at Marsh Road. A number of people were using the footpath. It is sloping land and the higher ground affords panoramic views over the rooftops and backs of the village houses and beyond into the surrounding countryside. The area contains two large trees. It is described in the Character Assessment as being visually important; “an open hub around which differing aspects of the village have developed, contributing crucially to the local distinctiveness of Rode”.³¹

The rear of houses fronting Marsh Road and Nutts Lane abut this area to its western and northern boundaries. To the south it adjoins a field and the rear of two other large

³⁰ NPPF paras 76, 77 and 78

³¹ Character Assessment page 13

houses. To the east it has a well-defined hedgerow edge and is adjacent to agricultural land. The area is located between the core of the village and its two separate smaller clusters of built development. The area is within close proximity to the community it serves. It is held in high and special regard by the community not only for its informal recreation and the footpath connection between Church Lane and Marsh Road, but for its openness and its visual qualities. It provides an important space in the context of this tightly knit village.

I found it to be a tranquil area with beautiful views. Although some 3 hectares in size it is a well defined and self contained area and its characteristics, topography and location in relation to the village and its clusters mean it is local in character; I do not regard it to be an extensive tract of land in this particular context. In reaching this conclusion, I am mindful of the advice in PPG which indicates there are “no hard and fast rules about how big a Local Green Space can be because places are different and a degree of judgment will inevitably be needed.”³² It goes on to say that the “blanket designation of open countryside adjacent to settlements will not be appropriate...should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by any other name.”³³

The **Village Green** is a small grassed area in the heart of the village. It contains the village sign, seating and a war memorial. The area also falls within the Conservation Area and so I have also considered whether any additional benefit is to be gained from LGS designation. I consider that it will give extra protection to an area that is at the heart of the village and is significant to the overall character and feel of the village and to its history.

The **Pathway to Rocabella** is an unusual candidate for LGS. Consisting of a well-used footpath leading to the river and a group of trees and junction with other paths, it is a tranquil area and beauty spot. I consider its entirety to be reasonably close to the community it serves and indeed the start of the footpath is very close to houses in The Mead.

Land in front of Langham House. This area falls within the Conservation Area and so I have considered whether any additional benefit is to be gained from LGS designation. It is also identified as an Open Area of Local Significance as rolled forward from the Local Plan 2002 in the LPI. Policy DP2 applies and resists proposals that would harm the contribution to distinctive local character. The emerging Local Plan Part II will review the designations and consider if any are suitable as LGSs. A number of trees are visible, but essentially this area is largely hidden from view and is gated. It forms part of the private grounds of Langham House. I consider that it will give extra protection to an area that is significant historically and to the overall character and feel of the village.

Right of way, FR13/4, is a footpath through a single track country lane with trees and vegetation either side which affords some very pleasant views over the surrounding countryside. The Plan explains that this is an ancient lane thought to be part of a

³² PPG para 015 ref id 37-015-20140306

³³ *Ibid*

historic route from Rode to Beckington. It is another unusual candidate for LGS designation, but is in reasonably close proximity to the village and holds a particular local significance in terms of its beauty and historic significance.

In my view, all of the proposed LGSs meet the criteria in the NPPF satisfactorily. I am also mindful of PPG advice that requires any such designations to be consistent with local planning for sustainable development.³⁴ In this case, MDC confirms the Plan is consistent with the strategic policies of the LP1.

As not all of the areas are publicly accessible, it is important to recall that PPG³⁵ indicates designation can be considered where there is no public access. PPG advises that designation in itself does not confer any rights of public access over what exists at present. Whilst the designation gives any LGS protection consistent with Green Belt, it does not place any new restrictions or obligations on landowners.

Turning now to the policy itself, the language used reflects that in the NPPF by referring to “very special circumstances”. It clearly sets out the expectations in respect of any development.

Policy 13 Open Spaces

Five other areas of open space are clearly shown on Map 5. Three smaller spaces on and around The Mead development are included as ‘one space’. The Steering Group confirms it is the intention that Policy 13 only applies to the spaces shown on Map 5. Given this a minor modification to make this clear is recommended.

In response to a query, it has been confirmed that the Church Farm Recreation Area has been shown inaccurately. I was sent an amended plan showing the corrected area. Map 5 in the Plan should be corrected accordingly.

This policy seeks to protect these open spaces, but allows development that would enhance the existing use and allows for the replacement of such facilities of an equivalent or better standard in a suitable location.

The NPPF³⁶ indicates that open spaces should not be built on unless there is an assessment that shows it is surplus to requirements or the loss would be replaced by equivalent or better provision in a suitable location or it is replaced by alternative sports provision the needs for which clearly outweigh the loss. This will also better reflect LPI Policy DP16 on open space and green infrastructure. To fully reflect the stance in the NPPF, LPI Policy DP16 and to help achieve sustainable development, a modification is recommended to refer to alternative sports provision.

³⁴ PPG para 007 ref id 37-007-20140306

³⁵ *Ibid* para 017 ref id 37-017-20140306

³⁶ NPPF para 74

- **Correct Map 5 to correctly show the Church Farm Recreation Area**
- **Change the first sentence of the policy to read: “*The following areas of land and as shown on Map 5 have an open space function and value:*” [retain bullet points]**
- **Add at the end of the last sentence of Policy 13: “*...or unless it can be satisfactorily demonstrated that the open space is surplus to requirements or the development is for alternative sports or recreational provision, the needs for which clearly outweigh the loss.*”**

Policy 14 Allotments

Policy 14 protects an allotment site unless replacement allotments are provided. It explains that there is a waiting list. Allotments promote healthy communities in line with the NPPF and, as well as providing a meeting place and shared space and recreation facility, they provide the opportunity to grow food and can promote biodiversity. The first element of the policy is in line with national policy and guidance and will help to achieve sustainable development.

The second element of the policy requires housing developments over ten units to provide allotment space at a specific standard taken from the Bristol Allotments Strategy of the equivalent or so of a minimum of 50 square metres per ten dwellings.

In response to my query I was sent a copy of the Bristol Parks and Estates Allotment Strategy 2009 – 2019 which I have assumed to be the same thing. The full title of the document concerned should be replicated in the Plan to avoid any confusion.

This strategy has been used as a basis for the policy in the absence of any Mendip specific standard. I am also advised in response to a query that Wiltshire has a similar standard. Although the National Allotment Society suggests an indicative plot size of 250 square metres, there is a trend towards smaller plots. There is a sound argument for every opportunity to be taken to provide more allotments as explained above. Policy 14 has adapted other published standards to set a requirement for larger developments in Rode. On balance I consider that this is justified and will support the provision of allotments for which there is a sound argument for every opportunity to be taken to provide more allotments.

- **Refer to the “*Bristol Parks and Estates Allotment Strategy*” instead of the “*Bristol Allotments Strategy*” in paragraph 6.2.9**

7. References

A useful list of references is included.

7.0 Conclusions and recommendations

I am satisfied that the Rode Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Mendip District Council that, subject to the modifications proposed in this report, the Rode Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Rode Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion. I therefore consider that the Plan should proceed to a referendum based on the Rode Neighbourhood Plan area as approved by Mendip District Council on 8 April 2013.

Ann Skippers MRTPI
Ann Skippers Planning
7 March 2017

Appendix 1

List of key documents specific to this examination

Rode Neighbourhood Plan 2015 - 2030 Submission V1 August 2016

Basic Conditions Statement May 2016

Consultation Statement Submission V1 August 2016

Character Assessment Submission V1 August 2016

Strategic Environmental Assessment and Habitats Regulations Assessment Screening Statement February 2016

Housing Needs Survey January 2014 Community Council for Somerset Consultation Service

AECOM Site Appraisal for the Rode Neighbourhood Plan Final Site Appraisal Report June 2015

Rode Village Consultation on Possible Sites Topline Survey Results March 2015

Rode Conservation Area Appraisal July 2009

Bristol Parks and Estates Allotment Strategy 2009 - 2019

Mendip District Local Plan 2006 – 2029 Part I Strategy and Policies adopted 15 December 2014

Mendip District Local Plan 2002

Local Plan Part II Open Areas of Local Significance/Local Green Spaces Technical Paper and Rode Section including maps

Various evidence documents and other information on www.rodeparishcouncil.webs.com

List ends

Appendix 2

Questions of clarification to MDC and the Parish Council

Rode Neighbourhood Plan Examination

Note and questions of clarification from the Examiner to MDC and the Parish Council

Having completed my initial review of the Neighbourhood Plan (the Plan) and the evidence submitted in support of it, I would be grateful if both Councils could kindly assist me as appropriate in actioning the following notes and in answering the questions which either relate to matters of fact or are areas in which I seek clarification or further information.

Please ensure that your answers are as brief as possible and factual in nature. Please do not send or direct me to evidence that is not already publicly available.

1. In general terms I will not usually accept late or additional representations from any party unless there has been a material change in circumstances since the six-week period of consultation has ended; this might include case law or a change to national policy.

a) I note the additional letter from Tetlow King Planning of 18 January 2017 which requests a hearing in view of a Written Ministerial Statement of 12 December 2016. I consider that it is important that any correspondence is managed by the LPA and that the Examiner, in order to retain independence and in the interests of openness and transparency, does not enter into correspondence with individual parties. Having read the representation, I would like to request that the LPA briefly responds to Tetlow King Planning indicating that the letter has been drawn to my attention and reassuring them that I am aware of the WMS as any Examiner would be as part of their general practice and that I will reach a view on the need for a hearing as part of the examination.

b) The LPA has sent me an additional response to the representations. I have carefully considered whether to accept this or not. I have decided that it would be helpful and proper to do so because I would have asked for this clarification had it not already been presented by the LPA. You have also placed it on your website and so it is within the public domain.

c) I have received further correspondence direct from the Parish Council in response to the representations made. I have consistently refused to accept such representations on other examinations that I have undertaken; I appreciate practice amongst Examiners may vary on this. I do appreciate the concern experienced by Parishes caused by some representations at the Regulation 16 stage and the desire to have a 'right to respond'. Please would the LPA reassure the Parish Council that I will deal with any Regulation 16 representations and should I need further information etc. to enable me to do that properly, I will request this or hold a hearing.

2. I note that the LPA website seems to contain a typo in referring to the end of the Regulation 16 period as 4th October rather than the 14th in one place and I'd be grateful if this could be remedied if I am correct on this point.
3. It seems that both sites (Church Farm and Lower Street) referred to in Policy 1 have planning permission for development and, if this is correct, please let me have brief details about the proposals and a site plan.
4. Please indicate Merfield House and the area subject to Policy 2 on a site plan.
5. Please provide me with a copy of the Conservation Area Appraisals or a link to them.
6. Please inform me what the site area is for Brown's Ground that is proposed as Local Green Space in Policy 12.
7. Is it the intention that Policy 13 (Open Spaces) only applies to those five areas referred to in the policy and shown on Map 5? (I note that three green areas around The Mead development are linked together in the policy).
8. Please could you send me a copy of, or link to, the Bristol Allotments Strategy referred to in the preamble to Policy 14 and briefly outline what the status of this document is and how it is applicable to the Plan area.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this list of clarification questions is a public document and that your answers will also be in the public domain. Both my questions and your responses should be placed on the Councils' websites as appropriate.

With many thanks

Ann Skippers
10 February 2017

Additional query

On 17 February I also asked MDC to check and confirm whether the open space area shown on Map 5 for Church Farm Recreation Area was shown correctly. In response it was confirmed that there was an inaccuracy and I was sent an amended Map 5.