

Mitcheldean Neighbourhood Development Plan 2016-2026

**A report to Forest of Dean District Council on
the Mitcheldean Neighbourhood Development
Plan**

**Andrew Ashcroft
Independent Examiner
BA (Hons) M.A. DMS M.R.T.P.I.**

Director – Andrew Ashcroft Planning Limited

Executive Summary

- 1 I was appointed by Forest of Dean District Council in May 2019 to carry out the independent examination of the Mitcheldean Neighbourhood Development Plan.
- 2 The examination was undertaken by written representations. I visited the neighbourhood plan area on 13 June 2019.
- 3 The Plan includes a range of policies and seeks to bring forward positive and sustainable development in the neighbourhood area. There is a very clear focus on safeguarding the character of the landscape setting of the neighbourhood area. It sets out to provide detailed policy guidance to complement that already included in the Allocations Plan.
- 4 The Plan has been underpinned by community support and engagement. It is clear that all sections of the community have been actively engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the Mitcheldean Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum.
- 6 I recommend that the referendum should be held within the neighbourhood area.

Andrew Ashcroft
Independent Examiner
28 August 2019

1 Introduction

- 1.1 This report sets out the findings of the independent examination of the Mitcheldean Neighbourhood Development Plan 2016-2026 (the 'Plan').
- 1.2 The Plan has been submitted to Forest of Dean District Council (FDDC) by Mitcheldean Parish Council in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework (NPPF) 2012 and its updates in 2018 and 2019. The NPPF continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether or not the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan can be narrow or broad in scope. Any plan can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The submitted plan has been designed to be distinctive in general terms, and to be complementary to the development plan in particular. It seeks to conserve the landscape setting of the neighbourhood area. It also proposes the designation of a series of local green spaces.
- 1.6 Within the context set out above this report assesses whether the Plan is legally compliant and meets the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.
- 1.7 This report also provides a recommendation as to whether the Plan should proceed to referendum. If this is the case and that referendum results in a positive outcome the Plan would then be used to determine planning applications within the Plan area and will sit as part of the wider development plan.

2 The Role of the Independent Examiner

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by FDDC, with the consent of the Parish Council, to conduct the examination of the Plan and to prepare this report. I am independent of both FDDC and the Parish Council. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 35 years' experience in various local authorities at either Head of Planning or Service Director level. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations and health checks. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral Service.

Examination Outcomes

- 2.4 In my role as the independent examiner of the Plan I am required to recommend one of the following outcomes of the examination:
- (a) that the Plan is submitted to a referendum; or
 - (b) that the Plan should proceed to referendum as modified (based on my recommendations); or
 - (c) that the Plan does not proceed to referendum on the basis that it does not meet the necessary legal requirements.
- 2.5 The outcome of the examination is set out in Sections 7 and 8 of this report.

Other examination matters

- 2.6 In examining the Plan I am required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
 - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
 - the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.
- 2.7 I have addressed the matters identified in paragraph 2.6 of this report. I am satisfied that the submitted Plan complies with the three requirements.

3 Procedural Matters

3.1 In undertaking this examination I have considered the following documents:

- the submitted Plan;
- the Basic Conditions Statement;
- the Consultation Statement;
- the FDDC SEA/HRA screening report;
- the Parish Council's responses to my Clarification Note;
- the representations made to the Plan;
- the adopted Forest of Dean Core Strategy;
- the adopted Forest of Dean Allocations Plan;
- the National Planning Policy Framework (February 2019);
- Planning Practice Guidance (March 2014 and subsequent updates); and
- relevant Ministerial Statements.

3.2 I carried out an unaccompanied visit to the neighbourhood area on 13 June 2019. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular. My visit is covered in more detail in paragraphs 5.9 to 5.16 of this report.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted plan, I was satisfied that the Plan could be examined without the need for a public hearing. I advised FDDC of this decision early in the examination process.

4 Consultation

Consultation Process

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 the Parish Council has prepared a Consultation Statement. This Statement identifies the mechanisms used to engage all concerned in the plan-making process. It includes an assessment of the consultation undertaken during the various stages of Plan production. It also provides specific details about the consultation process that took place on the pre-submission version of the Plan (August to October 2018).
- 4.3 The Statement sets out details of the range of consultation events that were carried out in relation to the initial stages of the Plan. They included:
- the initial publicity;
 - meetings with community groups to raise awareness;
 - the provision of regular updates on the Plan;
 - the establishment of a dedicated website on the emerging Plan;
 - the two drop-in events; and
 - the engagement with businesses and landowners.
- 4.4 Section 4 of the Statement provides useful feedback from the various events. The Statement provides summaries of the way in which the Parish Council engaged with various organisations. It is clear that the process has been proportionate and robust.
- 4.5 Section 5 provides specific details on the comments received as part of the consultation process on the pre-submission version of the Plan. It identifies the principal changes that worked their way through into the submission version. They help to describe the evolution of the Plan.
- 4.6 It is clear that consultation has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation.
- 4.7 From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive approach to seeking the opinions of all concerned throughout the process. FDDC has carried out its own assessment that the consultation process has complied with the requirements of the Regulations.

Representations Received

4.8 Consultation on the submitted plan was undertaken by FDDC for a six-week period that ended on 30 May 2019. This exercise generated comments from a range of organisations as follows:

- Highways England
- Sport England
- Severn Trent
- National Grid
- Mr S Batt
- Mr D Priddis
- Gloucestershire County Council
- Mr P Tufnell
- Environment Agency
- Gladman Developments Limited
- Context Land
- Historic England
- C.B Collier Ltd
- Brian Griffin P&CC Ltd

5 The Neighbourhood Area and the Development Plan Context

The Neighbourhood Area

- 5.1 The neighbourhood area consists of the parish of Mitcheldean. Its population in 2011 was 2783 persons. It was designated as a neighbourhood area on 18 September 2014. It is an irregular area. It is located between Ross on Wye and Gloucester.
- 5.2 Its principal settlement is the village of Mitcheldean itself. The neighbourhood area also includes several smaller settlements such as Abenhall and Wigpool. The neighbourhood area is however predominantly a rural parish and much of its area is in agricultural use. It is set in a valley with land rising steeply to both the west and to the east. As the Plan describes the valley widens out to the south of the A4136.
- 5.3 The village of Mitcheldean is the natural retail, commercial and social centre of the neighbourhood area and its wider hinterland. It has an attractive conservation area and a good selection of traditional historic buildings. It has a vibrant range of retail and community buildings in the village centre.

Development Plan Context

- 5.4 The development plan covering the neighbourhood plan area is the Core Strategy 2012 and the Allocations Plan. Collectively they set out a vision, objectives, a spatial strategy and overarching planning policies that guide new development in the District up to 2026. The submitted Plan has been designed to respect this period.
- 5.5 Policy CSP4 sets out a focus for new development based around the existing settlements in the District. Policy CSP5 identifies a requirement for around 101 new dwellings in Mitcheldean in the Plan period. The Core Strategy also includes a series of settlement policies. Mitcheldean is included within the context of Policy CSP16.
- 5.6 The Basic Conditions Statement usefully highlights the key policies in the development plan and how they relate to policies in the submitted Plan. This is good practice. It provides confidence to all concerned that the submitted Plan sits within its local planning policy context.
- 5.7 The Allocations Plan 2026 was adopted on 28 June 2018. It is complementary to the Core Strategy and provides further details about the key allocated development sites. The evolution of the submitted neighbourhood plan has allowed it to take account of these sites. The Allocations Plan proposes the following development sites in the neighbourhood area:

AP94	Land off Bradley Court Road (Vantage Point) – 40 dwellings
AP95	Old Coach Depot – 12 dwellings
AP96	Former George Hotel – 18 dwellings
AP97	Employment Intensification Vantage Point

- 5.8 The submitted Plan has been prepared within its wider adopted and emerging development plan context. In doing so it has generally relied on up-to-date information and research that has underpinned existing and emerging planning policy documents in the District. This is good practice and reflects key elements in Planning Practice Guidance on this matter.

Unaccompanied Visit

- 5.9 I carried out an unaccompanied visit to the neighbourhood area on 13 June 2019.
- 5.10 I drove into the area along the A4136 from the east. This gave me an initial impression of the setting and the character of the neighbourhood area. It also highlighted its connection to the strategic road system and to other settlements.
- 5.11 I looked initially at the village centre. I saw its importance to the local community. In particular I saw its vibrancy based on the area around the shops and the post office, the library, the surgery and The Mews. I also saw the mix of traditional vernacular buildings and the more modern buildings. I saw the importance and significance of the designated conservation area based around the Parish Church of St Michael and All Angels. I found my way into Platts Way and saw the fine timber-framed building abutting the Church itself. I also saw the impressive Town Hall dating back to 1710.
- 5.12 Thereafter I continued to the south along Stars Pitch. I saw the School and the impressive Old Rectory. I also looked at the various housing sites within the village centre as identified in the Allocations Plan.
- 5.13 I then walked to the north of the village centre to look at the concentration of the local green spaces to the west of Old Dean Road. I saw that they were used and maintained in their own ways. The recent heavy rain, in combination with its maintenance regime, had caused the Recreation Ground to look very luxurious and in prime condition for the start of the new football season. I saw the signs warning about the wild boars on the footpath leading into local green spaces 1 and 6. It was a reminder of the sensitivity of the neighbourhood area and its proximity to the surrounding countryside in general, and its location in Forest in particular.
- 5.14 I took the opportunity to look at the proposed Protection Zone to the immediate north and north-west of the village. I travelled up to Wigpool. I also looked at the employment areas to the north of the village, including the site identified in the Allocations Plan for residential purposes (AP97).
- 5.15 I looked carefully at the proposed Protection Area to the south of the village. In doing so I looked at Abenhall.
- 5.16 I finished my visit by driving to the west of the village along the A4136 to Coleford. This highlighted the significance of the landscape setting of the village.

6 The Neighbourhood Plan and the Basic Conditions

6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped considerably in the preparation of this section of the report. It is a well-presented and informative document. It is also proportionate to the Plan itself.

6.2 As part of this process I must consider whether the submitted Plan meets the Basic Conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan 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 in the area;
- be compatible with European Union (EU) and European Convention on Human Rights (ECHR) obligations; and
- not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (7).

6.3 I assess the Plan against the basic conditions under the following headings.

National Planning Policies and Guidance

6.4 For the purposes of this examination the key elements of national policy relating to planning matters are set out in the National Planning Policy Framework (NPPF) issued in February 2019. This approach is reflected in the submitted Basic Conditions Statement.

6.5 The NPPF sets out a range of core land-use planning principles to underpin both plan-making and decision-taking. The following are of particular relevance to the Mitcheldean Neighbourhood Plan:

- a plan led system– in this case the relationship between the neighbourhood plan and the adopted Forest of Dean Core Strategy and Allocations Plan
- recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
- taking account of the different roles and characters of different areas;
- always seeking to secure high quality design and good standards of amenity for all future occupants of land and buildings; and
- conserving heritage assets in a manner appropriate to their significance.

6.6 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development, which is identified as a

golden thread running through the planning system. Paragraph 13 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.7 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and ministerial statements.
- 6.8 Having considered all the evidence and representations available as part of the examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance in general terms. It sets out a positive vision for the future of the plan area within the context of its location within its landscape setting. In particular it includes policies on development within the settlement boundary. It also proposes policies on local green spaces and community facilities. The Basic Conditions Statement maps the policies in the Plan against the appropriate sections of the NPPF.
- 6.9 At a more practical level the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraph 16b). This was reinforced with the publication of Planning Practice Guidance in March 2014. Its paragraph 41 (41-041-20140306) indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise and supported by appropriate evidence.
- 6.10 As submitted the Plan does not fully accord with this range of practical issues. The majority of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

Contributing to sustainable development

- 6.11 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social and environmental. It is clear that the submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension the Plan includes policies for housing and employment development (Policies H1/H2 and B1-3 respectively). In the social role, it includes a policy on community facilities (Policy AC1) and green spaces (Policy AC2). In the environmental dimension the Plan positively seeks to protect its natural, built and historic environment. It has specific policies on the conservation area (Policy E1), Local Landscape Character (Policy E3) and Biodiversity (Policy E4). The Parish Council has undertaken its own assessment of this matter in the submitted Basic Conditions Statement.

General conformity with the strategic policies in the development plan

6.12 I have already commented in detail on the development plan context in the Forest of Dean in paragraphs 5.4 to 5.8 of this report.

6.13 I consider that the submitted Plan delivers a local dimension to this strategic context. The Basic Conditions Statement helpfully relates the Plan's policies to policies in the development plan. I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan.

European Legislation and Habitat Regulations

6.14 The Neighbourhood Plan General Regulations 2015 require a qualifying body either to submit an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 or a statement of reasons why an environmental report is not required.

6.15 In order to comply with this requirement FDDC undertook a screening exercise (March 2019) on the need or otherwise for a Strategic Environmental Assessment (SEA) to be prepared for the Plan. The report is thorough and well-constructed. As a result of this process it concluded that the Plan is not likely to have any significant effects on the environment and accordingly would not require SEA.

6.16 FDDC has produced a separate Habitats Regulations Assessment (HRA) of the Plan at the same time. It concludes that the Plan is not likely to have significant environmental effects on a European nature conservation site or undermine their conservation objectives alone or in combination taking account of the precautionary principle. As such Appropriate Assessment is not required.

6.17 The HRA report is very thorough and comprehensive. It took appropriate account of a significant range of protected sites as listed below:

- Wye Valley and Forest of Dean Bat SAC (Adjoining / Within plan area);
- Wye Valley Woodlands SAC (Nearest location 8km W);
- River Wye SAC (Nearest location 1.5km W);
- Severn Estuary SAC/SPA Ramsar (Nearest location 10km S); and
- Walmore Common SPA Ramsar (Nearest location 5km SE).

It provides assurance to all concerned that the submitted Plan takes appropriate account of important ecological and biodiversity matters.

6.18 Having reviewed the information provided to me as part of the examination, I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of European obligations.

6.19 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. There has been full

and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

Summary

- 6.20 On the basis of my assessment of the Plan in this section of my report I am satisfied that it meets the basic conditions subject to the incorporation of the recommended modifications contained in this report.

7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the policies in the Plan. In particular, it makes a series of recommended modifications to ensure that the various policies have the necessary precision to meet the basic conditions.
- 7.2 My recommendations focus on the policies themselves given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is distinctive and proportionate to the Plan area. The wider community and the Parish Council have spent time and energy in identifying the issues and objectives that they wish to be included in their Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (41-004-20170728) which indicates that neighbourhood plans must address the development and use of land.
- 7.5 I have addressed the policies in the order that they appear in the submitted plan. Where necessary I have identified the inter-relationships between the policies.
- 7.6 For clarity this section of the report comments on all policies whether or not I have recommended modifications in order to ensure that the Plan meets the basic conditions.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

The initial section of the Plan (Sections 1-5)

- 7.8 These introductory parts of the Plan set the scene for the range of policies. They do so in a proportionate way. The Plan is presented in an effective way. It makes a good use of well-selected photographs and maps. A very clear distinction is made between its policies and the supporting text. It also highlights the links between the Plan's objectives and its resultant policies.
- 7.9 The Executive Summary of the Plan is self-explanatory. It is also remarkably effective. Others preparing neighbourhood plans would do well in following this approach.
- 7.10 The Introduction comments about the development of the Plan. It also provides background information on neighbourhood planning. The process chart at Figure 1 is very informative. This section of the Plan also comments about the production of the Plan and the key planning issues it has sought to address.

- 7.11 Section 2 comments about the historic development of Mitcheldean and how it has influenced the preparation of the Plan. It is a very helpful context to the neighbourhood area. It highlights its importance as a manufacturing centre within the District.
- 7.12 Section 3 comments about the nature of the neighbourhood area. It addresses its conservation area, its employment base, its housing stock and its environment and landscape setting.
- 7.13 Section 4 comments on the planning policy context to the preparation of the Plan. It has a focus on the NPPF, Planning Practice Guidance and the adopted development plan. It demonstrates that the Plan has been properly prepared within this wider context.
- 7.14 Section 5 comments about the Plan's Vision and Objectives. It is well-constructed. It describes how the Vision and the Objectives of the Plan were developed. The objectives directly stem from the Vision.
- 7.15 The remainder of this section of the report addresses each policy in turn in the context set out in paragraphs 7.5 to 7.7 of this report.

Policy H1 Housing within Mitcheldean village

- 7.16 This policy has a sharp focus on promoting sustainable development within the identified settlement boundary. As submitted the policy supports development which would:
- re-use brownfield sites or buildings;
 - do not lead to a loss of community facilities or green spaces;
 - do not lead to a loss of employment opportunities;
 - contribute towards a mix of house types
- 7.17 It also includes associated elements on empty properties and on parking requirements.
- 7.18 The policy has attracted several comments from the development industry. In general, they suggest that the approach taken is overly-restrictive in general, and that no opportunity has been taken to review the settlement boundary in the adopted Allocations Plan in particular.
- 7.19 In the supporting text associated with the policy the Parish Council has given significant attention to the inclusion of the various sites in the Allocations Plan. This approach has a degree of merit in ensuring that the submitted Plan is in general conformity with the development plan and in promoting the development of the various sites.
- 7.20 Through the clarification note process I sought an update from FDDC on progress on their delivery. I was advised as follows:

There are three housing sites in Mitcheldean which are allocated by the FDDC's 2018 Allocations Plan, numbered AP94, 95 and 96. All three are on the 2018 register of brownfield land reflecting their current state.

The first (AP94) is an allocation for about 40 dwellings and mainly comprises a unit within the Vantage point employment area. It is however on the edge of this employment area with easy access from the existing highway network. The site was allocated for housing in the Allocations Plan, a move that was supported by the agent for the owner at the time and at the plan examination. It is a site regarded as able to deliver housing but it is not included in the five-year housing land supply. No application has been submitted.

The second site (AP95) is a former bus/ coach depot allocated for about 12 dwellings and situated in a location close to the Church and adjoining the Conservation Area. The site has been vacant for a number of years and is regarded as one that is within the five-year housing land supply. There have been no planning applications yet for its redevelopment.

The third site (AP96) is allocated for about 18 dwellings and has permission for delivery of 31 dwellings in the form of flats. The most recent permission is the reserved matters approval (P1106/18/APP) alongside the full permission for three units adjoining (1106/18). These two permissions provide 31 units, all with full permission. This site is regarded as deliverable in the housing trajectory within five years.

- 7.21 Plainly progress on the development of these important sites has been patchy. Nonetheless it is appropriate for the submitted Plan to provide a context for their development within the Plan period (and the Plan period of the adopted Allocations Plan). FDDC has now started work on a new local plan process. It will direct new development up to 2041. On this basis it is referred to as 'Plan 41'. Clearly at some point the emerging local plan will replace the existing adopted development plan during the plan period of the neighbourhood plan. In this context I have recommended modifications to Section 7 of the Plan (Monitoring and Review).
- 7.22 Having considered all the relevant information I have concluded that, in general terms, the policy takes a positive approach towards promoting sustainable development. In particular the settlement boundary is well-defined. Any review of those boundaries could practically be considered, and reviewed as necessary, as part of the preparation of the emerging local plan.
- 7.23 I recommend a series of modifications. In combination they provide a clear policy context that is required by the NPPF. I recommend the deletion of the part of the policy that refers to the re-use of empty properties. It is largely unnecessary in general, and in particular as the proposals it anticipates would not need planning permission. I also recommend that the car parking elements of the policy are simplified and relate to parking standards established elsewhere in the development plan.

Delete the final sentence of criterion 4.

Delete the second paragraph of the policy.

Replace the final section of the policy with: ‘Development proposals should provide car parking to development plan standards’

Policy H2 Gateway and outside settlement boundary

7.24 This policy sets out the Plan’s approach towards residential development outside the settlement boundary. It is policy that incorporates a series of issues. As a result, its approach is rather confusing and overlapping. The issues addressed include:

- Protection Zones (as detailed later in the Plan in Policies E3/E4 and Map 8);
- gateways to the village;
- the identification of brownfield development sites in the village in the Allocations Plan;
- specific landscapes where development would not be supported;
- issues about the lack of infrastructure in the village;
- ancient hedgerows; and
- flood risk

7.25 The policy has attracted a series of representations from the development industry. In general terms they contend that the policy is overtly-restrictive.

7.26 In taking a restrictive approach the Parish Council has sought to add a range of locally-distinctive matters to national and local planning policies. Whilst local planning policy does not go into the same level of detail as that proposed in the submitted Plan it already provides a significant degree of guidance for the neighbourhood area on this important matter as follows:

(In relation to Mitcheldean itself) ‘The village is likely to experience steady development, including some intensification within the existing built up area and realisation of existing commitments over the next few years. (Core Strategy paragraph 7.70)

(In relation to the smaller settlements without settlement boundaries such as Abenhall and Wigpool) ‘the overwhelming characteristic of most is that they are small and not intensively-developed. Very few could be described as being sustainably located in terms of being within easy reach of a range of transport alternatives or having easy access to some basic facilities. The Core Strategy will not treat these small settlements in any way different to their treatment in national and regional planning policy and for most purposes therefore they will be regarded as part of the open countryside. The settlements concerned will not be generally suitable for new

housing, with the possible exception of very modest developments of affordable housing under policy CSP5, and exceptionally conversions.’ (Core Strategy 7.75)

- 7.27 In addition several of the specific elements of the submitted policy are not directly supported by evidence and are not included within the supporting text. This is particularly the case with agricultural land, landscape setting and infrastructure matters.
- 7.28 Having considered all the evidence available to me as part of the examination I have concluded that the approach taken in the policy fails to meet the basic conditions. In this context I recommend that the policy is deleted and replaced with a policy which applies national and local policies within the neighbourhood area. I address the matter of the proposed Protection Zones in Policy E4.
- 7.29 I also recommend consequential modifications to the supporting text at paragraph 6.1.3. Its main body both takes a very restrictive approach and comments in detail about a site which is not promoted for development.

Replace the policy with:

‘Proposed residential development outside the settlement boundary will be supported where one or more of the following circumstances apply:

- **there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;**
- **the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;**
- **the development would re-use redundant or disused buildings and enhance its immediate setting; or**
- **the development would involve the subdivision of an existing residential dwelling.’**

In paragraph 6.1.3 delete the principal section (‘Having fulfilled.....not supported by the NDP’)

Policy B1 Supporting Local Businesses Development and Tourism

- 7.30 This policy sets the scene for how the Plan intends to support local business development and tourism.
- 7.31 It provides a positive context for new or expanded business development where it would help to diversify the local economy. It incorporates a series of criteria that new development proposals should meet (1-9). Points 10-13 of the policy identify separate policy matters relating to retail uses and to The Mews.
- 7.32 I am satisfied that the policy meets the basic conditions in general terms. Nevertheless, I recommend a series of modifications. In particular I recommend that

the final elements of the policy are separated from the main part of the policy. In doing so I recommend that the elements on tourism development (11), retail development (12) and The Mews (13) are deleted. Tourism development is set out in Policies B2 and B3. For retail development the policy does not identify the village centre. In relation to The Mews the policy does not identify the changes of use that would be supported.

7.33 I also recommend consequential modifications to the supporting text.

In criterion 1 replace ‘a detrimental’ with ‘an unacceptable detrimental’

In criterion 3 replace ‘possible’ with ‘practicable’

In criterion 5 replace ‘Be designed to fit into’ with ‘Respect’

Separate part 10 of the policy from the bulk of the policy and treat as a free-standing element

Delete criteria 11, 12 and 13

Delete paragraph 6.2.8

Policy B2 Supporting Local Business Development and Tourism in the Protection Zones

7.34 This policy sets out the Plan’s approach to tourism development. I have already recommended in the modification to Policy B1 that this policy should be the main focus for the Plan’s approach to tourism-related development. There is also an overlap between Policies B2 and B3. I sought clarification from the Parish Council on this latter matter. I was advised that it reflected the need to reinforce the intended approach.

7.35 In general terms there are considerable overlaps between the approaches taken in Policies B2 and B3. In the circumstances I recommend that they are combined into a single policy. This will bring the clarity required by the NPPF. It will allow FDDC to apply the policy approach clearly and consistently through its development management function.

7.36 In this context I recommend that the policy addresses the following aspects of the matters included in the two submitted policies:

- the role of Mitcheldean as a central hub for tourism;
- support for sustainable tourism;
- the Plan’s approach to holiday cabins, campsite and caravan sites; and
- the support for the conversion of redundant historic agricultural buildings for tourism use.

- 7.37 The Plan takes a very restrictive view towards the development of new holiday cabins, campsites and caravan sites. This is in contrast with the supportive approach within Policy CSP7 Economy of the Core Strategy. I recommend that this aspect of the policy takes on a positive approach in general terms and also takes account of paragraph 6.49 of the Core Strategy in particular which comments that ‘economic development, including tourism-based enterprise in rural areas needs to be compatible with the surroundings and landscape, and should be sustainably located so that it contributes to the locality, rather than just being conveniently located’. This will reflect the evidence included in the submitted Plan about the sensitivity of the neighbourhood area to such development.

Replace policies B2 and B3 with:

‘Proposals for new or expanded tourism-based enterprises will be supported where they are:

- **compatible in scale, massing and design with their surroundings and landscape;**
- **are sustainably-located;**
- **respect the countryside in the neighbourhood area, including its wildlife, peace and tranquillity;**
- **respect the ecology and biodiversity of the neighbourhood area; and**
- **maintain its dark skies environment**

Proposals for new or expanded tourism-based enterprises within Mitcheldean will be supported. Proposals which would support the village as a central tourism hub and/or the development of a series of heritage trails will be particularly supported.

Proposals for the conversion of redundant historic agricultural buildings for tourism use will be supported where they:

- **are sympathetic to the building concerned;**
- **are proportionate in scale and impact to their surroundings; and**
- **do not have unacceptable impact on the amenities of any residential properties in the immediate locality’**

At the end of paragraph 6.2.11 add:

‘Policy B2 sets out the Plan’s approach to tourism-related development. Its ambition is to support development that is in scale with the character and appearance of the neighbourhood area, and respects its wildlife, peace and tranquillity in particular. It also supports the conversion of historic agricultural buildings for tourism purposes.

Policy B3 Sustainable and Responsible Tourism Policy

- 7.38 This policy overlaps with Policy B2.

- 7.39 In paragraphs 7.34 and 7.35 I have recommended that Policies B2 and B3 are combined. On this basis I recommend the deletion of Policy B3.

Delete Policy B3

Policy AC1 Provision and Protection of Community Facilities

- 7.40 This policy sets out to retain existing community facilities within the neighbourhood area. They are listed in paragraph 6.3.2 of the Plan.
- 7.41 The structure of the policy is slightly-confusing. The first two criteria identify the circumstances where the change of use of existing community facilities to other uses will be supported. The third criterion comments separately that new community facilities will be supported. The fourth criterion then comments about the space available on the two school sites. The fifth criterion highlights the need for any new housing development to be accompanied by government funding for the upgrades to the doctor's surgery/health centre.
- 7.42 I recommend a series of modifications so that the policy has the clarity required by the NPPF and can be clearly and consistently applied by FDDDC. I recommend that the third criterion becomes a free-standing part of the policy. I also recommend that the fourth and fifth criteria are deleted. The fourth is a statement of fact. The fifth addresses a matter which is for local resolution and debate. Doctor's surgeries are now funded in a complex fashion and there would be no direct, functional relationship between new residential development and the provision of central government funding to health facilities in the neighbourhood area.

Reposition the third criterion so that it is a free-standing part of the policy.

Delete criteria 4 and 5.

Delete the final paragraph of the policy.

Policy AC2 Local Green Space and Amenity Space

- 7.43 This policy proposes the designation of a series of local green spaces (LGSs). The work undertaken has sought to follow the advice in paragraphs 99-101 of the NPPF on this important matter. The policy assesses the various sites against the criteria identified in national policy. I sought clarification from the Parish Council on the size of the various sites. On the basis of the information supplied I am satisfied that they are local in character and not extensive tracts of land.
- 7.44 I looked at the various LGSs when I visited the neighbourhood area. I saw that they had been carefully-chosen. I saw that they were focused within the village centre and in the area to the immediate north of the village centre.

- 7.45 I also sought clarification from the Parish Council on the extent to which the block of LGSs to the north of the village centre were separate parcels of land rather than one larger area of LGS. On the information provided about their maintenance regimes and my own observations when I visited the neighbourhood area, I am satisfied that they are separate parcels of LGS.
- 7.46 The policy itself seeks to provide a local context to the matter of fact approach in the NPPF. Whilst it has some merit, I recommend that the policy is modified so that it follows the approach in the NPPF. FDDC will be able to form its own judgements on development proposals on a case-by-case basis. I also recommend the deletion of the reference to land north of Carisbrook Road and the Castiard Valley as valued open green spaces. Plainly they have value. Nonetheless the policy is designed to identify and designate LGSs and these areas have not been included by the Parish Council as LGSs within the Plan.
- 7.47 The policy includes the analysis of the sites against the NPPF criteria. Whilst the work undertaken is robust it is supporting text rather than policy. I recommend accordingly.

In the policy simply list the ten LGSs (without the NPPF analysis).

**Replace the first paragraph of policy on page 39 with:
'Development will not be supported on identified Local Green Spaces except in very special circumstances'**

Delete the second paragraph of policy on page 39

Include the analysis of the 10 LGS against the criteria in the NPPF at the end of paragraph 6.3.11 (rather than within the policy).

Policy E1 Protecting the Conservation Area and Encouraging High Quality Design

- 7.48 The policy has two main components. The first and main component is to ensure that new development incorporates good design that reflects the character and the appearance of the neighbourhood area. The second has a clear focus on the designated Mitcheldean conservation area.
- 7.49 I sought advice from the Parish Council about the extent to which the second part should be distinct from the main body of the policy. It agreed that this should be the case and I recommend accordingly.
- 7.50 I also recommend a series of other modifications to the policy so that it has the clarity required by the NPPF. The modifications do not alter the thrust and direction of the policy.

In the opening part of the policy replace 'will be required to' with 'should'

Replace the first design principle with: ‘A mixture of houses types and sizes’

Replace the third design principle with ‘The design of new dwellings should respect existing buildings in their local context and, where practicable, use local vernacular materials in their construction. New dwellings should provide outside space for bin storage and recycling facilities appropriate to their scale. Each new dwelling should also provide a minimum of two car parking spaces.

Replace design principle 4 with a free-standing element of the policy to read: ‘Within the Mitcheldean conservation area new development should respect the scale, height and massing of existing buildings and use vernacular materials appropriate to the development and to its position within the conservation area.’

Policy E2 Protecting Heritage Assets

- 7.51 This policy seeks to conserve heritage assets in the neighbourhood area. It addresses both designated and non-designated assets. Appendix 1 includes a schedule of both sets of assets.
- 7.52 Whilst the policy has sought to follow the approach taken in national policy it includes elements which do not have regard to the national approach. In particular national policy only requires consideration of an application on the significance of a non-designated heritage asset and does not prevent development coming forward which may influence the significance of a non-designated heritage asset.
- 7.53 In this context I recommend modifications to the policy so that it is clear to which assets it applies, and that it fully applies national policy to the specific assets.

At the end of the first paragraph add: ‘They are identified in Appendix 1’

Replace the second paragraph of the policy with: ‘The effect of any planning application on the significance of a non-designated heritage asset will be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be taken having regard to the scale of any harm or loss and the significance of the heritage asset.’

Policy E3 Protecting and Enhancing Local Landscape Character

- 7.54 This policy seeks to protect and enhance the local landscape character in the neighbourhood area. It includes both general elements, and specific elements on development within the conservation area, development in the village outside the conservation area, and development outside the settlement boundary.
- 7.55 The specific elements of the policy overlap with other policies in the Plan. I sought clarification from the Parish Council on this matter. I was provided with general advice on the need for the overlaps and the consistency of approach.

7.56 I have considered all the evidence very carefully. In doing so I have concluded that the more detailed parts of the policy repeat the approach taken in other policies in the Plan. This is both unnecessary and has the ability to introduce confusion to the decision-maker. In any event the approach taken by some of the more detailed elements of the policy do not meet the basic conditions as submitted. In this context I have recommended modifications to the other policies. In the more general parts of the policy I recommend that the references to other documents are repositioned into the supporting text.

In the first paragraph of the policy replace ‘are required to’ with ‘should’

In the second paragraph of the policy:

- **delete ‘following FODCC specification guidelines (and the associated links)’**
- **in the part of the paragraph referring to forest stone and fencing replace ‘is encouraged’ with ‘will be supported’**

Delete the fourth paragraph of the policy

At the end of paragraph 6.4.15 add:

Policy E3 provides a context for this approach. Where necessary and appropriate tree and hedge planting should follow the guidance in the following District Council documents [list here the documents highlighted in the second paragraph of the submitted policy]

Policy E4 Biodiversity

7.57 This policy has a clear focus on biodiversity and the way in which it can be enhanced through building design and landscaping.

7.58 Its latter part establishes a series of policies/principles that should be incorporated into new development proposals. The various matters overlap with other elements in the Plan including the Protection Zones, dark skies and priority habitats.

7.59 The policy has attracted representations from the development industry. In combination they draw attention to its complicated nature and the various overlaps with policies elsewhere in the Plan. There is particular concern about the widespread geographic nature of the Protection Zones and the very strong policy restrictions which would apply in the two identified areas.

7.60 I sought clarification from the Parish Council on the process it had followed in identifying the Protection Zones. In its response, amongst other things, it drew my attention to the following matters:

- the Gloucestershire Local Nature Partnership identified Environmentally Sensitive Areas and part of larger landscape wildlife corridors;
- the Forest of Dean adopted Bat Strategy; and
- its assertion that the retention agricultural land on the forest fringes is optimum habitat for the foraging and commuting rare bats (European Protected Species) as highlighted in paragraphs 174a and 174b of the NPPF.

7.61 I have considered all the information available to me, including the Parish Council's response to the clarification note. I recommend a series of modifications to the policy as follows:

- the simplification of the policy so that it focuses on conserving and enhancing biodiversity;
- the removal of the third paragraph of the policy which includes the series of policies and principles; and
- the incorporation of the Protection Zones within a free-standing part of the policy.

7.62 The third element of the modifications results in a separate part of the policy to address the ecological implications anticipated by the two Protection Zones. Their effect will be to safeguard the important ecology within the defined areas rather than to do so bluntly as proposed in the submitted Plan by the prevention of any development. The modified policy is compatible with the supporting text in paragraph 6.4.16 which describes the reasoning for the identification of the Protection Areas.

7.63 I am satisfied that there is sufficient evidence to support a policy approach that seeks to conserve the ecological importance of the two identified Protection Zones. However, I am not satisfied that there is sufficient evidence to support the very restrictive approach to development in these areas as included in the submitted plan. Planning Practice Guidance (ID:67-009-20190722) comments that:

'The nature of rural housing needs can be reflected in the spatial strategy set out in relevant policies, including in the housing requirement figures for any designated rural areas. A wide range of settlements can play a role in delivering sustainable development in rural areas, so blanket policies restricting housing development in some types of settlement will need to be supported by robust evidence of their appropriateness'.

7.64 Furthermore the same paragraph offers support to the delivery of exception sites in such areas. It comments that ' Local planning authorities can support opportunities to bring forward rural exception sites by working proactively with landowners and potential delivery partners such as parish councils and community land trusts'.

7.65 The strength of the proposed Protection Zones is their overall scale and their relation to the wider landscape. However, this approach does not extend to the parcel of land to the north and east of Carisbrook Road. It is a much smaller area and for which there is no detailed justification. Whilst its northern boundary follows a defined boundary the Plan does not identify how it is any different from the land to its north or

north-east. In addition, it has been incorporated into the submitted Plan after the pre-submission Plan without any explanation. On this basis I recommend that this parcel of land is removed from the Protection Zones as shown on Map 8.

At the beginning of the second paragraph insert ‘Where practicable,’

Delete the third paragraph of the policy.

Insert a free-standing part of the policy to read: ‘The Plan identifies two Protection Zones as shown on Map 8. Development proposals within the identified Protection Zones should have regard to its priority species, important habitats, wildlife corridors and its wider ecological networks’

On Map 8 remove the parcel of land to the north and east of Carisbrook Road.

Policy E5 Landscape Impact Policy of Outlying Areas

- 7.66 This policy seeks to identify a series of policy approaches towards development in the outlying areas of the neighbourhood area. As its title section suggests it is intended to be read with other policies in the submitted Plan.
- 7.67 As submitted the policy is not a policy. Instead it is a series of bullet points which seek to determine the way in which developments in the outlying areas of the neighbourhood area should respect their location within the wider environment. I sought clarification from the Parish Council on the way in which had designed the policy. It advised that it included a series of principles to protect the wider landscape, its setting and its ecological importance.
- 7.68 I recommend that the policy is replaced with one which identifies the way in which developments should take account of a series of environmental and landscape matters. In doing so I recommend the deletion of some of the criteria in the submitted policy where they are adequately addressed in other policies (as modified) in the Plan. In addition, I recommend the deletion of elements of the submitted policy which address proposals such as the retention of livestock farming and the re-introduction of heritage orchards, and which would not need planning permission. On this basis they are incapable of being controlled by a policy.
- 7.69 I also recommend that the policy’s geographic application is clarified. As submitted, it refers to the ‘outlying areas’ of the neighbourhood area without defining those areas. In this context I recommend that the policy simply applies to that part of the neighbourhood area outside the settlement boundary.

Replace the policy title with:

‘Landscape impact of developments outside the settlement boundary’

Replace the policy with:

‘Development proposals outside the settlement boundary should have regard to the landscape setting of the neighbourhood area as defined in the Landscape Character Assessment.

Where development proposals otherwise comply with other policies in the development plan, including Policy H2 of this Plan, they will be supported where they meet the following criteria insofar as they are applicable to the proposed development:

- **conserve and, where practicable, enhance the local character of the landscape;**
- **conserve and, where practicable, enhance existing forested and woodland areas including forest waste;**
- **conserve agricultural land and maintain, and, where practicable, enhance hedgerows and trees;**
- **support the maintenance and, where practicable, the enhancement of horseshoe bat foraging and commuting landscapes;**
- **conserve the topographical green landscape bowl setting around the village; and**
- **conserve existing landscape heritage squatter settlement patterns.**

Policy T1 Transport and Accessibility

- 7.70 This policy is general in its coverage. It has two points of focus. The first is that developments which would generate a significant amount of traffic should be supported by a Transport Statement. The second is that developer contributions will be sought where possible to support and improve existing public transport links to towns and facilities and other related matters. The supporting text comments that the policy seeks to build on the approach included in Policy CSP4 of the Core Strategy.
- 7.71 In this strategic context the policy seeks to add local value to Policy CSP4. However, in doing so it takes an approach which is focused on process matters rather than policy considerations. In addition, the third part of the policy then identifies a series of priority projects towards which any developer contributions would be directed.
- 7.72 I recommend modifications so that the policy takes on a policy rather than a process approach. In particular the modified approach reflects the importance of any development being designed with the intention of accommodating its traffic and accessibility elements as an integral part of the proposal itself rather than relying on developer contributions to mitigate the effects of the development concerned.
- 7.73 I recommend that the third paragraph of the policy is deleted and replaced within the supporting text. This reflects that it is a series of local priorities rather than a planning policy.

Add an initial part of the policy to come at the beginning:

‘New development should be designed so that accommodates its traffic impacts within either the site itself or within the existing capacity of the highway network.’

**At the beginning of the second paragraph of the submitted policy add:
‘Where the development is otherwise acceptable and conforms with other policies in the development plan and where the traffic impacts of the scheme cannot be fully accommodated within the site or within the highway network’**

In that paragraph replace ‘wherever possible’ with ‘where practicable and directly related to the proposed development’

Delete the third paragraph of the submitted policy.

At the end of paragraph 6.5.9 add:

‘Policy T1 reflects this approach. It aims to ensure that new developments provide for their own transport requirements. Where this cannot be achieved it seeks to provide a local dimension to that included in Policy CSP4 of the Core Strategy. [Insert at this point the deleted third part of the policy]’

Section 7 Monitoring and Review

- 7.74 This section of the Plan properly addresses the need for neighbourhood plans to be monitored and reviewed. It makes reference to the emerging Local Plan.
- 7.75 I have mentioned earlier in this report the need for a robust approach a potential review of any ‘made’ neighbourhood plan within the context of Policy H1. In particular this could relate to the review of the strategic housing requirement for the area in the longer term, the definition of the settlement boundary and the delivery or otherwise of the strategic sites in the Allocations Plan. In this context I recommend the inclusion of any additional paragraph in Section 7.

Include a new paragraph in Section 7 to read:

The need or otherwise for the neighbourhood plan to be reviewed will be based on the annual monitoring information. As a minimum a review of the Plan will be considered every five years after it has been made or within six months of the adoption of the emerging Local Plan (Plan 41)

Other matters

- 7.76 This report has recommended a series of modifications both to the policies and to the supporting text in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modification to the policy concerned, I have highlighted them in this report. However other changes to the general text may be required elsewhere in the Plan as a result of the recommended modifications to the policies. It will be appropriate for FDDC and the Parish Council to

have the flexibility to make any necessary consequential changes to the general text. I recommend accordingly.

- 7.77 This flexibility extends to making changes to policy and paragraph numbers. This report has recommended a series of modifications (including merging two policies into one policy) which will have an effect on the structure and organisation of the Plan. Whilst this report has identified some of the direct modifications that will be required there will be others which the Parish Council will identify in the event that the recommended modifications are incorporated into the Plan.

Modification of general text (where necessary) to achieve consistency with the modified policies.

8 Summary and Conclusions

Summary

- 8.1 The Plan sets out a range of policies to guide and direct development proposals in the period up to 2026. It is distinctive in addressing a specific set of issues that have been identified and refined by the wider community.
- 8.2 Following my independent examination of the Plan I have concluded that the Mitcheldean Neighbourhood Development Plan meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.

Conclusion

- 8.3 On the basis of the findings in this report I recommend to Forest of Dean District Council that subject to the incorporation of the modifications set out in this report that the Mitcheldean Neighbourhood Development Plan should proceed to referendum.

Referendum Area

- 8.4 I am required to consider whether the referendum area should be extended beyond the Plan area. In my view, the neighbourhood area is entirely appropriate for this purpose and no evidence has been submitted to suggest that this is not the case. I therefore recommend that the Plan should proceed to referendum based on the neighbourhood area as originally approved by Forest of Dean District Council on 18 September 2014.

8.5 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth and efficient manner.

Andrew Ashcroft
Independent Examiner
28 August 2019