



Ref: **MM-**
Other

(For official use only)

Consultation on Draft Main Modifications to the Local Plan Review 2013 - 2033

Form for representations

Please return by 17 February 2020 (5pm).

When making a representation you must include your name and full postal address, otherwise your comments cannot be registered. Addresses will only be used to inform people about the new plan and other planning matters.

This form has two parts –

Part A – Your Details

Part B – Your representation(s). Please fill in a separate Part B for each representation.

Data Protection Act. Please note that this information on this form will be entered onto a database and the paper copies retained on file. The information will be used for the purposes of Town and Country Planning and may be viewed by any person for such purposes. To find out more on how we use your personal information, please see our Privacy Notice <https://www.middevon.gov.uk/PNRepresentations>

The Local Plan Review Main Modifications and associated information can be seen on the Council's website at www.middevon.gov.uk/LPRMainMods

If you require this information in another language or format, please contact us on 01884 255255 or email customerfirst@middevon.gov.uk

Part A

	1. Personal Details*	2. Agent Details (if applicable)
Title	Mr	
First Name	Martin	
Last Name	Drew	
Job Title (where relevant)		
Organisation (where relevant)		
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E-mail Address	████████████████████	

** If an agent is appointed, please complete only The Title, Name and Organisation boxes below but complete the full contact details of the agent in 2*

Part B – Please use a separate sheet for each representation

3. Name or organisation:

4. To which Main Modification consultation document does this representation relate? Please tick one box only (please use a separate sheet for each document you are commenting on)

Schedule of Proposed Main Modifications	X
Sustainability Appraisal Addendum	
Habitats Regulations Assessment (HRA) Addendum	
Equality Impact Assessment (EqIA) Addendum	
Schedule of Additional Modifications	

5. Please indicate the schedule reference (e.g. MM01) in the above document and the Policy number (e.g. DM1) to which your representation relates (please use a separate sheet for each schedule reference you are commenting on):

Reference Code Policy

Please note that this consultation invites comments on modifications only, and not the wider unchanged content of the Local Plan Review.

The Local Plan Review 2013 – 2033 is required to be assessed against the tests set out in paragraph 182 of the 2012 version of the National Planning Policy Framework to establish whether it is ‘sound’ and complies with legal requirements:

- **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities, where it is reasonable to do so and consistent with achieving sustainable development;
- **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- **Consistent with National Policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the National Planning Policy Framework.

6. Do you consider the Local Plan Review to be:

6.(1) Legally compliant Yes No

- 6.(2) Sound

6 (2.1) Positively Prepared	Yes <input type="checkbox"/>	No <input type="checkbox" value="NO"/>
6 (2.2) Justified	Yes <input type="checkbox"/>	No <input type="checkbox" value="NO"/>
6 (2.3) Effective	Yes <input type="checkbox"/>	No <input type="checkbox" value="NO"/>
6 (2.4) Consistent with national policy	Yes <input type="checkbox"/>	No <input type="checkbox" value="NO"/>

7. Please provide your comments below

1. I have previously indicated that Jamie Byrom is acting for me in relation to the Local Plan, along with many other local residents in the village, and I am aware of his concurrent submissions with regard to the main modifications [MMs]. Among other things I have noted his exchange with the Programme Officer and the Inspector with regard to paragraph 6.1 of the Procedural Guide for Local Plan Examinations (June 2019, 4th edition, v1). In that context I propose to take a broader approach rather than focus on individual MMs because none of those have any relevance to the concerns I still have.
2. The examining Inspector says "*I am content that the Council's conclusion that development of the site proposed for allocation could take place with very little or no harmful impact on the setting or the significance of the Grand Western Canal Conservation Area is not an unreasonable one*"¹. It follows from the way in which that sentence is expressed that the Council must have reached a conclusion in those terms. If this claim is true then doubtless the Inspector will, when writing his final report, expressly identify where in the evidence base the Council set out this conclusion.
3. The need to document such a conclusion is clear from the responses of Historic England to the Council during earlier consultations². It later said the evidence base: "*... needs to assess whether there is any harm to heritage assets (designated and undesignated) through the site allocations, whether that harm can be avoided or mitigated through the Plan (for example a site allocation policy/ design principles/change of use/ change size of allocation) or whether the harm is justified taking account of the public benefit*"³. In the same correspondence Historic England referred the Council to its published guidance in GPA3 and, in particular, the 5-step process, the first step of which is to identify the heritage asset including, where needed, a site survey. In that context it is appropriate to record that the Council has never undertaken this exercise and no Local Plan Officer or Councillor has visited my property to assess the effect that housing development on the land at Higher Town would have on the closest part of the Grand Western Canal Conservation Area [GWCCA].
4. My own review of the evidence base finds no evidence to support the claim that the Council reached such a conclusion. Amongst other things:
 - i) the Sustainability Appraisal [SA] failed to identify the GWCCA when assessing the land at Higher Town, even though it was expressly identified in relation to the proposed J27 allocation, which is over a mile away from the GWCCA on the other side of the M5 together with the elevated slipways for J27 itself. The fact that the SA identified it in relation to J27 but failed to do so in relation to the land at Higher Town underlines my view that the Council failed to identify the GWCCA as part of the SA. Its existence should, at a minimum, have been identified as baseline information in the SA;
 - ii) the Council's case in this respect was set out by its barrister who claimed at the examination Hearing that it could be "*inferred*", presumably from the fact that it does not say anything, that there was no significant effect on the

¹ Draft Local Plan examination document ID08.

² See paragraphs 60 and 62 of my "Response to Sustainability Appraisal [SA] Consultation April 2018" which refer, in turn, to 2013 and 2015 consultation responses, respectively.

³ Both quotes taken from the letter dated 3 April 2018 from Historic England to the Council.

GWCCA. However, as the designated heritage asset was not identified in the SA it has never been explained how such an inference is capable of being drawn and I conclude that the only reasonable finding is that it was neither identified nor assessed;

- iii) whilst the Historic Environment Appraisal [HEA] identified the GWCCA this is not a reference to my property⁴. Moreover, the HEA contains no assessment of the effect upon the GWCCA which, as I have noted, is directly contrary to the approach recommended to the Council by Historic England;
 - iv) my unchallenged statutory declaration dated 26 March 2018 confirms that the head of Local Plans at the Council was unable, when questioned at the only consultation event to take place in the village, to correctly identify the GWCCA. The Inspector will need to explain why he has reached a conclusion directly at odds with this evidence, which must be given substantial weight;
 - v) the SA and HEA were undertaken in-house by a very small team which was under that officer's management and control. It should be noted that this was prior to Mr Peat, the current post holder, being employed by the Council and so any claim that he has made with regard to the Council's assessment of harm amounts to mere speculation because he wasn't there; and,
 - vi) the Inspector failed to conduct a site inspection at my property, which is the closest part of the GWCCA to the allocated site, at approximately 50 m distant, in order to inform his own assessment [*"I am content"*] of the effect upon it. Given that he said in the hearing on 21 September 2018 that he was going to visit the GWCCA I regard this to be extremely unfortunate. In the absence of a site visit the evidence shows that housing on the allocated site will breach the skyline, dominate the view by reason of the difference in topography [up to 25 m vertically] and harm the setting of the GWCCA⁵.
5. I was also surprised that in the Inspector's brief note to the Council he chose to make a patronising and inappropriate comment rather than addressing other fundamental concerns that have been raised by objectors with regard to SP2, including highways and landscape. There is, by way of example, no justification for the arbitrary line that distinguishes the housing allocation from the GI in the SP2 allocation, which fails to follow a contour line. It is of note that the area of the allocation nearest Battens Cross would be highly visible on the skyline from, amongst other places, the GWCCA to the south⁶.
6. Finally, of particular concern in the context of the fact that objectors have already raised issues of propriety in relation to the Council⁷, I am surprised that the examining Inspector failed to make any declaration of interests. I am aware that his partner has, quite properly, declared a conflict of interest with regard to Mr Jillings, the effect of which is that she would have been precluded from dealing with this examination or the current appeal. Noting that none of the MMs address the objectors' concerns, it would appear that the examining Inspector's failure to make any such declaration is a clear breach of the Franks principles of openness and impartiality, specifically in terms of transparency of action.

⁴ See paragraph 22 of my "Response to Sustainability Appraisal [SA] Consultation April 2018".

⁵ See photograph 19 in my LVIA.

⁶ See photographs 3 and 4 in my LVIA both of which are taken from within the GWCCA.

⁷ See, by way of example, paragraph 33 of my "Response to Sustainability Appraisal [SA] Consultation April 2018".

7. For all of these reasons I concur in the concurrent submissions of Mr Byrom and conclude that the most appropriate main modification would be to delete SP2 from the Local Plan. In a recent appeal decision it was agreed that: *"the District has a 7.58 year supply against an annual need for 357 dwellings per annum, applying the Government's standard method and taking account of the Housing Delivery Test results"*⁸, and that was before that proposal for 125 dwellings⁹ was allowed. Willand lies in relatively close proximity to the J27 allocation and, unlike for SP2¹⁰, cycling is a reasonable option in order to commute to that site. In any event, as Mr Byrom shows, the fact that the Inspector has cut the link between SP2 and J27 is entirely at odds with the process, explicit in the SA and the Council's retrospective reasons for its selection, that led to SP2 being chosen.
8. If, in the face of the reasoned comments that have been made by objectors with regard to SP2, the Inspector recommends the current inadequate MMs then all appropriate options will be explored at the point of adoption.

(Continue on a separate sheet if necessary)

⁸ Source of quote: paragraph of decision dated 29 August 2019 [Ref APP/Y1138/W/18/3214685].

⁹ Adding 83 to the housing land supply because the site was already allocated for 42 units.

¹⁰ Cyclists would have to cross the motorway junction which, having done it myself, is dangerous because of the speed, and to a lesser extent volume and nature, of the traffic.