

**Rotherwick Parish Council**

# **Rotherwick Neighbourhood Development Plan**

A Report to Hart District Council of the Independent  
Examination of the Rotherwick Neighbourhood Development  
Plan

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30 June 2016

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## Overall Finding

This is the report of the Independent Examination of the Rotherwick Neighbourhood Development Plan. The plan area is the entire Rotherwick Parish area. The Plan period is 2016 to 2032. The Neighbourhood Plan includes fifteen policies relating to the development and use of land.

The report finds that subject to specified modifications the Neighbourhood Plan meets the basic conditions and other requirements to proceed to a local referendum within the Parish.

## Neighbourhood Planning

1. The Localism Act 2011 empowers local communities to take responsibility for the preparation of elements of planning Policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “*neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.*”<sup>1</sup>
2. Following satisfactory completion of the necessary preparation process neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.
3. The Rotherwick Neighbourhood Development Plan (the Neighbourhood Plan) has been prepared by Rotherwick Parish Council (the Parish Council), a qualifying body able to prepare a neighbourhood plan, in respect of the Rotherwick Neighbourhood Area which was formally designated by Hart District Council (the District Council) on 2 October 2014. Plan preparation has been progressed through a Steering Committee to which Community Policies, Planning, and Communications and Coordination sub-groups have reported
4. The submission draft of the Neighbourhood Plan, along with the Consultation Statement and the Basic Conditions Statement, has been approved by the Parish Council for submission of the plan and accompanying documents to the District Council. Rotherwick is the first parish to submit a Neighbourhood Plan to Hart District. The District Council has submitted the Neighbourhood Plan to me for independent examination

## Independent Examination

5. This report sets out the findings of the independent examination into the Neighbourhood Plan.<sup>2</sup> The report makes recommendations to the District Council including a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. The District Council will decide what action to take in response to the recommendations in this report.

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<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012)

<sup>2</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

6. The District Council will decide whether the Neighbourhood Plan should proceed to referendum, and if so whether the referendum area should be extended, and what modifications, if any, should be made to the submission version plan. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by the District Council. If 'made' the Neighbourhood Plan will come into force and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area.
7. I have been appointed by the District Council with the consent of the Parish Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Parish Council and the District Council. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am an experienced Independent Examiner of Neighbourhood Plans. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have forty years professional planning experience and have held national positions and local authority Chief Planning Officer posts.
8. As independent examiner I am required to produce this report and must recommend either:
  - that the Neighbourhood Plan is submitted to a referendum, or
  - that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or
  - that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements.
9. I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>3</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>4</sup>
10. The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>5</sup> The

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<sup>3</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>4</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>5</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

Guidance states “it is expected that the examination of a draft Neighbourhood Plan will not include a public hearing.”

11. The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue, or a person has a fair chance to put a case. All parties have had opportunity to state their case. As I did not consider a hearing necessary I proceeded on the basis of written representations.

## **Basic conditions and other statutory requirements**

12. An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>6</sup> A neighbourhood plan meets the basic conditions if:

- having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the 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 of the authority (or any part of that area),
- the making of the neighbourhood plan does not breach, and is otherwise compatible with, EU obligations, and
- the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>7</sup>

13. An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>8</sup> All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan taken as a whole’ and ‘The Neighbourhood Plan policies’.

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<sup>6</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>7</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>8</sup> The Convention rights has the same meaning as in the Human Rights Act 1998

14. In addition to the basic conditions and Convention rights, I am also required to consider whether the Neighbourhood Plan complies with the provisions made by or under sections 38A and 38B of the Planning and Compulsory Purchase Act 2004.<sup>9</sup> I am satisfied the Neighbourhood Plan has been prepared in accordance with the requirements of those sections, in particular in respect to the Neighbourhood Planning (General) Regulations 2012 which are made pursuant to the powers given in those sections.
15. The Neighbourhood Plan relates to the area that was designated by the District Council as a neighbourhood area on 2 October 2014. A map of the Rotherwick Designated Plan Area is included as Figure 1 of the Submission Version Plan. The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>10</sup> and no other neighbourhood development plan has been made for the neighbourhood area.<sup>11</sup> All requirements relating to the plan area have been met.
16. I am also required to check whether the Neighbourhood Plan sets out policies for the development and use of land in the whole or part of a designated neighbourhood area;<sup>12</sup> and the Neighbourhood Plan does not include provision about excluded development.<sup>13</sup> I am able to confirm that I am satisfied that each of these requirements has been met.
17. A neighbourhood plan must also meet the requirement to specify the period to which it has effect.<sup>14</sup> The front cover of the Submission Version clearly shows the plan period to be 2016 – 2032.
18. The role of an independent examiner of a neighbourhood plan is defined. I am not examining the test of soundness provided for in respect of examination of Local Plans.<sup>15</sup> It is not within my role to examine or produce an alternative plan, or a potentially more sustainable plan. I have been appointed to examine whether the submitted Neighbourhood Plan meets the basic conditions and Convention rights, and the other statutory requirements.

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<sup>9</sup> In sections 38A and 38B themselves; in Schedule 4B to the 1990 Act (introduced by section 38A (3)); and in the 2012 Regulations (made under sections 38A (7) and 38B (4)).

<sup>10</sup> Section 38B (1)(c) Planning and Compulsory Purchase Act 2004

<sup>11</sup> Section 38B (2) Planning and Compulsory Purchase Act 2004

<sup>12</sup> Section 38A (2) Planning and Compulsory Purchase Act 2004

<sup>13</sup> Principally minerals, waste disposal, and nationally significant infrastructure projects - Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>14</sup> Section 38B (1)(a) Planning and Compulsory Purchase Act 2004

<sup>15</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

19. A neighbourhood plan can be narrow or broad in scope. There is no requirement for a neighbourhood plan to be holistic, or to include policies dealing with particular land uses or development types, and there is no requirement for a neighbourhood plan to be formulated as, or perform the role of, a comprehensive local plan. The nature of neighbourhood plans varies according to local requirements.
20. Neighbourhood plans are developed by local people in the localities they understand and as a result each plan will have its own character. It is not within my role to re-interpret, restructure, or re-write a plan to conform to a standard approach or terminology. Indeed, it is important that neighbourhood plans are a reflection of thinking and aspiration within the local community. They should be a local product and have particular meaning and significance to people living and working in the area.
21. Apart from minor corrections and consequential adjustment of text (referred to in the Annex to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made so that the plan meets the basic conditions and the other requirements I have identified.<sup>16</sup>

## Documents

22. I have given consideration to each of the following documents in so far as they have assisted me in considering whether the Neighbourhood Plan meets the basic conditions and other requirements:
- Rotherwick Neighbourhood Plan 2016-2032 Submission Version 4 April 2016
  - Rotherwick Neighbourhood Plan 2016-2032 Basic Conditions Statement 4 April 2016
  - Rotherwick Neighbourhood Plan 2016-2032 Consultation Statement 4 April 2016
  - Representations received during the Regulation 16 publicity period
  - Hart District Local Plan (Replacement) 1996-2006 and First Alterations - Saved Policies
  - National Planning Policy Framework (27 March 2012) [*In this report referred to as the Framework*]
  - Department for Communities and Local Government Permitted development for householders' technical guidance (April 2016) [*In this report referred to as the Permitted Development Guidance*]

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<sup>16</sup> See 10(1) and 10(3) of Schedule 4B to the Town and Country Planning Act 1990

- Department for Communities and Local Government Planning Practice Guidance web-based resource (first fully launched 6 March 2014) [*In this report referred to as the Guidance*]
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014
- The Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Localism Act 2011
- Neighbourhood Planning (General) Regulations 2012 (as amended) [*In this report referred to as the Regulations*]

## Consultation

23. The submitted Neighbourhood Plan is accompanied by a comprehensive Consultation Statement which outlines the process undertaken in the preparation of the plan. In addition to detailing who was consulted and by what methods, it also provides a summary of comments received from local community members and other consultees and how these have been addressed in the submission plan. I highlight here a number of key stages of consultation undertaken in order to illustrate the approach adopted.

24. A Village Survey was undertaken in November and December 2014 principally to seek views on how the Parish should develop over the next fifteen years and to identify volunteers to help in plan preparation. 158 responses were received representing a 28% return from the 564 questionnaires that were delivered to every residence in the Parish. Drop-in events were also held at that time.

25. A Volunteer Event in February 2015 and a Launch Event attended by 90 people in April 2015 were, in May 2015, followed by a second comprehensive consultation that included delivery of survey forms to all homes and businesses. This survey generated 69 responses.

26. A SHLAA Site Consultation was held over a six-week period in July and August 2015 including on-line and paper surveys and drop-in sessions at the Village Hall on the day of the Village BBQ. This consultation which focussed on the seven SHLAA sites resulted in 99 responses

27. A public meeting held on 7 October 2015, well attended by approximately 60 people, was followed by a period of further

consultation on a Policies Document that ran until 6 November 2015. A total of 75 people responded to the survey resulting in adjustments to the emerging policies.

28. Pre-submission consultation in accordance with Regulation 14 was undertaken in the six-week period 15 December 2015 to 31 January 2016 included on-line and paper surveys and three drop-in sessions at local public houses. Responses resulted in adjustment of the Draft Neighbourhood Plan prior to approval by the Parish Council and submission to the District Council in April 2016.
29. The Submission Version of the Neighbourhood Plan has been the subject of a Regulation 16 publicity period between 29 April and 10 June 2016. A total of 36 representations were submitted to the District Council during the publicity period which I have taken into consideration in preparing this report, even though they may not be referred to in whole, or in part. One representation was received several days after the publicity period had closed. I have not taken that representation into consideration.
30. Twenty-five representations support the entire Neighbourhood Plan and a further four representations, including those submitted by Wokingham Borough Council and Surrey County Council, confirm no comments on the Plan. Historic England suggests renaming the 'Natural Environment Policies' as 'Historic and Natural Environment Policies' to provide greater clarity for decision makers as to the reasons for seeking to protect these features. Whilst I would have no objection to such a change as this adjustment is not necessary to meet the Basic Conditions I have not proposed a modification in this respect. Nine representations include some comment in respect of one or more policies, often suggesting wording amendments. Two representations offer concerns or objections primarily relating to the issue of restriction on housing development. The Hampshire and Isle of Wight Wildlife Trust has confirmed general satisfaction with the policies, particularly policies NE01 – NE03. Where representations relate to specific policies I have considered the issues raised when examining the policies in question later in my report.
31. The Regulations state that where a qualifying body submits a plan proposal to the local planning authority it must include amongst other items a consultation statement. The Regulations state a consultation statement means a document which –
  - a) Contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;

- b) Explains how they were consulted;
- c) Summarises the main issues and concerns raised by the persons consulted; and
- d) Describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.<sup>17</sup>

32. The Consultation Statement includes information in respect of each of the requirements set out in the Regulations. On this basis I am satisfied the requirements have been met.

## The Neighbourhood Plan taken as a whole

33. This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State; whether the plan contributes to the achievement of sustainable development; and whether the plan is in general conformity with the strategic policies contained in the development plan for the area. Each of the plan policies is considered in turn in the section of my report that follows this.

Consideration of Convention rights; and whether the making of the Neighbourhood Plan does not breach, and is otherwise compatible with, EU obligations; and the making of the Neighbourhood Plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

34. The Basic Conditions Statement states “*The NDP has had regard to EU obligations and the human rights requirements. It is compatible with all requirements.*” I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (property).<sup>18</sup> I have seen nothing in the submission version of the Neighbourhood Plan that indicates any breach of the Convention. Although no equalities impact assessment has been undertaken the

<sup>17</sup> Regulation 15 The Neighbourhood Planning (General) Regulations 2012 SI 2012 No.637

<sup>18</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

submission draft of the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

35. The objective of EU Directive 2001/42<sup>19</sup> is *“to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”* The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>20</sup> as the Local Planning Authority is obliged to ‘make’ the plan following a positive referendum result.<sup>21</sup>
36. The Neighbourhood Planning (General) (Amendment) Regulations 2015 require the Parish Council to submit to the District Council either 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. The District Council issued a Screening Opinion on 28 January 2016 that had been prepared on its behalf by consultants concluding that the Neighbourhood Plan will not have significant effects in relation to any of the criteria set out in Schedule 1 of the SEA Regulations and therefore does not need to be subject to a report prepared in accordance with the EU Directive 2001/42 on Strategic Environmental Assessment (SEA). It is confirmed that the Consultation bodies agreed with the Screening conclusions. I am satisfied that the requirements in respect of Strategic Environmental Assessment have been met.
37. The Basic Conditions Statement includes a Habitats Regulations Assessment - Screening prepared by consultants on behalf of the District Council which states *“It is the conclusion of this HRA that following a screening assessment it can be ascertained, in light of the information available at the time of assessment that the Rotherwick Neighbourhood Plan will not give rise to significant effects on the Thames Basin Heaths SPA either alone or in combination with other plans and/or projects. Given the findings of the screening assessment it is considered that a full appropriate assessment is not required”*. I conclude the requirements of the EU Habitats Regulations have been

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<sup>19</sup> Transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004

<sup>20</sup> Defined in Article 2(a) of Directive 2001/42

<sup>21</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

met. I have not seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site.

38. There are a number of other EU obligations that can be relevant to land use planning including the Water Framework Directive, the Waste Framework Directive, and the Air Quality Directive but none appear to be relevant in respect of this independent examination.

39. I conclude that the Neighbourhood Plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

40. The Guidance<sup>22</sup> states it is the responsibility of the local planning authority to ensure that all the regulations appropriate to the nature and scope of a draft neighbourhood plan submitted to it have been met in order for the draft neighbourhood plan to progress. The local planning authority must decide whether the draft neighbourhood plan is compatible with EU obligations (including obligations under the Strategic Environmental Assessment Directive):

- when it takes the decision on whether the neighbourhood plan should proceed to referendum; and
- when it takes the decision on whether or not to make the neighbourhood plan (which brings it into legal force).

Consideration whether having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the Neighbourhood Plan; and whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development

41. I refer initially to the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan*”. The requirement to determine whether it is appropriate that the plan is made includes the words “*having regard to*”. This is not the same as compliance, nor is it the same as part of the test of soundness provided for in respect of examinations of

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<sup>22</sup> National Planning Policy Guidance paragraph 031 reference ID:11-031-20150209

Local Plans<sup>23</sup> which requires plans to be “*consistent with national Policy*”.

42. Lord Goldsmith has provided guidance<sup>24</sup> that ‘*have regard to*’ means “*such matters should be considered.*” The Guidance assists in understanding “*appropriate*”. In answer to the question “*What does having regard to national Policy mean?*” the Guidance states a neighbourhood plan “*must not constrain the delivery of important national Policy objectives.*”
43. The Basic Conditions Statement seeks to demonstrate that the Neighbourhood Plan has been prepared with regard to national policies as set out in the Framework. A statement is made to explain how the Neighbourhood Plan has specifically responded to paragraphs 17, 28, 47-55, 56-68, 69-78, 109-125, and 126-141 of the Framework.
44. The Neighbourhood Plan includes a positive Vision seeking to provide an excellent quality of life for residents, visitors and those who work in the Parish. The Vision is further supported by nine objectives relating to environment, built environment and community. The objectives of the Neighbourhood Plan are consistent with the core planning principles of the Framework. The Neighbourhood Plan taken as a whole seeks to shape and direct development. This is precisely the role national Policy envisages for a neighbourhood plan.
45. Apart from those elements of Policy of the Neighbourhood Plan in respect of which I have recommended a modification to the plan I am satisfied that need to ‘have regard to’ national policies and advice contained in guidance issued by the Secretary of State has, in plan preparation, been exercised in substance in such a way that it has influenced the final decision on the form and nature of the plan. This consideration supports the conclusion that with the exception of those matters in respect of which I have recommended a modification of the plan, the Neighbourhood Plan meets the basic condition “*having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the plan.*”
46. At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread

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<sup>23</sup> Under section 20 of the Planning and Compulsory Purchase Act 2004 and in respect of which guidance is given in paragraph 182 of the Framework

<sup>24</sup> The Attorney General, (Her Majesty’s Principal Secretary of State for Justice) Lord Goldsmith, at a meeting of the Lord’s Grand Committee on 6 February 2006 to consider the Company Law Reform Bill (Column GC272 of Lords Hansard, 6 February 2006) and included in guidance in England’s Statutory Landscape Designations: a practical guide to your duty of regard, Natural England 2010 (an Agency of another Secretary of State)

running through both plan making and decision-taking.<sup>25</sup> The Guidance states, “*This basic condition is consistent with the planning principle that all plan-making and decision-taking should help to achieve sustainable development. A qualifying body must demonstrate how its plan or order will contribute to improvements in environmental, economic and social conditions or that consideration has been given to how any potential adverse effects arising from the proposals may be prevented, reduced or offset (referred to as mitigation measures). In order to demonstrate that a draft neighbourhood plan or order contributes to sustainable development, sufficient and proportionate evidence should be presented on how the draft neighbourhood plan or order guides development to sustainable solutions*”<sup>26</sup>.

47. The Basic Conditions require my consideration whether the making of the Neighbourhood Plan contributes to the achievement of sustainable development. There is no requirement as to the nature or extent of that contribution, nor a need to assess whether or not the plan makes a particular contribution. The requirement is that there should be a contribution. There is also no requirement to consider whether some alternative plan would make a greater contribution to sustainable development.

48. The Framework states there are three dimensions to sustainable development: economic, social and environmental. The Basic Conditions Statement includes a section that seeks to demonstrate the economic, social and environmental attributes of the Neighbourhood Plan.

49. I conclude that the Neighbourhood Plan, by guiding development to sustainable solutions, contributes to the achievement of sustainable development. Broadly, the Neighbourhood Plan seeks to contribute to sustainable development by seeking to accommodate new development and preserve and enhance public and private sector community and commercial facilities whilst seeking to safeguard aspects of the built and natural environment that are highly valued by residents of the area. In particular, I consider the Neighbourhood Plan seeks to:

- Maintain a strong sense of place and distinctive local rural character by supporting appropriate development proposals and not supporting inappropriate proposals that adversely affect important local characteristics;

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<sup>25</sup> Paragraph 14 National Planning Policy Framework 2012

<sup>26</sup> National Planning Policy Guidance (Ref ID:41-072-20140306)

- Concentrate development within a Rotherwick village settlement boundary rather than support dispersed development in the countryside other than in specified restricted circumstances;
- Ensure significant countryside features are not adversely affected by development;
- Encourage development proposals that conserve or enhance biodiversity or nature conservation;
- Maintain or enhance rights of way;
- Achieve good quality design of development schemes in general, and in the Conservation Area;
- Support the maintenance of local commercial and community facilities, and not support adverse impact or inappropriate loss of such facilities;
- Support appropriate development in the countryside that will benefit the rural economy;
- Designate Local Green Spaces in seven locations.

50. I note the Neighbourhood Plan includes Section 4 – Delivering the NDP which includes a statement that the Parish Council will consider the need for review of the Neighbourhood Plan no less frequently than every five years. This commitment to review represents good practice.

51. Subject to my recommended modifications of the Submission Plan including those relating to specific policies, as set out later in this report, I find it is appropriate that the Neighbourhood Plan should be made having regard to national policies and advice contained in guidance issued by the Secretary of State. I have also found the Neighbourhood Plan contributes to the achievement of sustainable development.

Consideration whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area)

52. The Framework states that the ambition of a neighbourhood plan should “*support the strategic development needs set out in Local Plans*”.<sup>27</sup> “*Neighbourhood plans must be in general conformity with the*

<sup>27</sup> Paragraph 16 National Planning Policy Framework 2012

*strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies”.*<sup>28</sup>

53. The Guidance states, “A local planning authority should set out clearly its strategic policies in accordance with paragraph 184 of the National Planning Policy Framework and provide details of these to a qualifying body and to the independent examiner.”<sup>29</sup> In this independent examination I am required to consider whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area). The District Council has informed me that the Development Plan applying in the Rotherwick neighbourhood area and relevant to the Neighbourhood Plan comprises:

- The South East Plan - partially revoked on 25th March 2013 but Policy NRM6 that deals with the Thames Basin Heaths Special Protection Area remains in place;
- Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies; (The District Council has identified which of the saved policies are considered to be strategic);
- Hampshire Minerals and Waste Plan 2013.

54. As the Local Plan Saved Policies predate the Framework, the Framework takes precedence where there is a conflict. There is no requirement for a neighbourhood plan to include particular types of development and land use policies, nor is there any requirement for a neighbourhood plan to deal with any particular development and land use issues.

55. In order to satisfy the basic conditions, the Neighbourhood Plan must be in general conformity with the strategic policies of the Development Plan. The emerging Local Plan is not part of the Development Plan and this requirement does not apply in respect of that. Emerging planning Policy is subject to change as plan preparation work

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<sup>28</sup> Paragraph 184 National Planning Policy Framework 2012

<sup>29</sup> National Planning Policy Guidance (ID: 41-04720 140306)

proceeds.<sup>30</sup> The Guidance states *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood areas. They can be developed before or at the same time as the local planning authority is producing its Local Plan”*. In *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC1470 (Admin) it was held that the only statutory requirement imposed by basic condition (e) is that the Neighbourhood Plan as a whole should be in general conformity with the adopted development plan as a whole.

56. In considering a now repealed provision that *“a local plan shall be in general conformity with the structure plan”* the Court of Appeal stated *“the adjective ‘general’ is there, “to introduce a degree of flexibility.”*<sup>31</sup> The use of ‘general’ allows for the possibility of conflict. Obviously there must at least be broad consistency, but this gives considerable room for manoeuvre. Flexibility is however not unlimited. The test for neighbourhood plans refers to the strategic policies of the development plan rather than the development plan as a whole.

57. The Guidance states, *“When considering whether a Policy is in general conformity a qualifying body, independent examiner, or local planning authority, should consider the following:*

- *whether the neighbourhood plan Policy or development proposal supports and upholds the general principle that the strategic Policy is concerned with*
- *the degree, if any, of conflict between the draft neighbourhood plan Policy or development proposal and the strategic Policy*
- *whether the draft neighbourhood plan Policy or development proposal provides an additional level of detail and/or a distinct local approach to that set out in the strategic Policy without undermining that Policy*
- *the rationale for the approach taken in the draft neighbourhood plan or Order and the evidence to justify that approach.”*<sup>32</sup>

58. My approach to the examination of the Neighbourhood Plan policies has been in accordance with this guidance. If there were to be a conflict between a Policy in a neighbourhood plan and a Policy in a local plan the conflict must be resolved in favour of the Policy contained in the last of those plans to become part of the Development

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<sup>30</sup> The District Council has work underway to prepare a new Local Plan. The Local Plan Part 1: Strategy and Sites will set the Planning Strategy for the area up until 2032 and is programmed to be adopted in Summer 2017. A Local Plan Part 2: Development Management and other allocations is expected to be adopted in Autumn 2018.

<sup>31</sup> *Persimmon Homes v. Stevenage BC* the Court of Appeal [2006] 1 P &CR 31

<sup>32</sup> National Planning Policy Guidance (ID ref: 41-074 201 40306)

Plan.<sup>33</sup> The Neighbourhood Plan cannot therefore prejudice the emerging Local Plan in this respect.<sup>34</sup> I conclude the Neighbourhood Plan can proceed to being ‘made’ in advance of the emerging Local Plan being adopted.

59. Consideration as to whether the making of the Neighbourhood Plan is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area) has been addressed through examination of the plan as a whole and each of the plan policies below. Subject to the modifications I have recommended I have concluded the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan.

## **The Neighbourhood Plan policies**

60. The Neighbourhood Plan includes 15 policies:

Policy SP01: Sense of Place

Policy SP02: Location and nature of development

Policy SP03: Countryside features

Policy SP04: Quality of life

Policy NE01: Local Green Spaces

Policy NE02: Rural features

Policy NE03: Biodiversity and nature conservation

Policy NE04: Rights of Way

Policy BE01: Design

Policy BE02: Conservation Area

Policy BE03: Dwellings in the countryside

Policy CP01: Rural nature

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<sup>33</sup> Section 38(5) Planning and Compulsory Purchase Act 2004

<sup>34</sup> See paragraph 103 of the Judgement in *BDW Trading Limited, Wainholmes Developments Ltd v Cheshire West & Chester BC* [2014] EWHC 1470 (Admin)

Policy CP02: Community facilities

Policy CP03: Commercial premises and land

Policy CP04: Employment

61. The Framework states *“Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan.” “Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area.”*<sup>35</sup>
62. The Guidance states *“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”*
63. *“While there are prescribed documents that must be submitted with a neighbourhood plan ... there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan”.*
64. *“A neighbourhood plan must address the development and use of land. This is because if successful at examination and referendum the neighbourhood plan will become part of the statutory development plan once it has been made (brought into legal force) by the planning authority. Applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.”*<sup>36</sup>
65. If to any extent a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that policies have this status,

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<sup>35</sup> Paragraphs 184 and 185 National Planning Policy Framework 2012

<sup>36</sup> See section 38(6) of the Planning and Compulsory Purchase Act 2004.

and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn.

66. Several policies include the phrases “*will be permitted*” or “*will not be permitted*”. With regard to the issue of decision making the Framework states “*the planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise*”. This basis for decision making should be made clear through inclusion of an introductory statement, and policies should use the term “will be supported” or “not be supported” in recognition that the basis of decision making is the development plan unless material considerations indicate otherwise. The material considerations at the time of determination of a future planning application are unknown and therefore cannot be dismissed through a policy that states development will be permitted or not permitted. I have recommended a modification so that the basis of decision making on planning applications should be clarified.

**Recommended modification 1:**

**The basis of decision making on planning applications should be clarified as indicated**

67. I have found Policy SP03 Countryside features and Policy NE02 Rural features cover some common ground. Whilst this element of overlap or repetition is not entirely user friendly I do not consider modification is necessary to meet the basic conditions. Similarly, the use of the term Strategic Policies to describe the first four policies of the Neighbourhood Plan may lead to some element of confusion as the Framework makes reference to strategic policies in respect to Local Plans. Whilst use of an alternative term in the Neighbourhood Plan is desirable such a change is not necessary to meet the basic conditions and I have therefore not recommended a modification.

**Policy SP01: Sense of Place**

68. This Policy seeks to establish support for proposals which maintain a strong sense of place through their location, design, density and scale, retaining the distinctive local character of the Parish. The Policy also seeks to establish an expectation that development proposals will, where appropriate, comply with the design principles of the Village Design Statement.

69. The Village Design Statement which is set out as Annex D to the Submission Plan includes design principles relating to landscape; arrangement of buildings; design of existing and new buildings; and highways arrangements. In a representation Historic England states *“We feel that, at present, the Policy treats the design statement as Policy without it’s guidance being given this status in the plan. To ensure its status is more accurately reflected in the Policy as outlining a means by which the requirement of the first part of the Policy can be achieved we would recommend amending the final sentence of the Policy to: “Where appropriate applications should include evidence to demonstrate how the proposed design has sought to sustain the village’s character including reference to the parameters set in the Village Design Statement.””*

70. I agree with this representation of Historic England and recommend a modification so that the Policy is distinct from the requirement included in Policy BE01 e) and provides a practical framework within which decisions on planning applications can be made, as required by paragraph 17 of the Framework.

71. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with requiring good design; promoting healthy communities; meeting the challenge of climate change and flooding; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 2:**

**In Policy SP01**

**Delete “will be expected to comply with the design principles” and insert “should include evidence to demonstrate how the proposed design has sought to sustain the Parish’s character including reference to the parameters set out”**

**Policy SP02: Location and nature of development**

72. This Policy seeks to establish that new development will be concentrated within a defined Rotherwick village settlement boundary, and establish criteria for determination of development proposals

elsewhere. The Policy also sets out four other criteria that development has to be in accordance with to be supported.

73. Two representations specifically support this Policy. Another representation states *“Rotherwick does not have the infrastructure to support any significant growth in housing with no shops, public transport, doctors etc. It has narrow roads within it and on its approaches (lengths of single file with passing places from two directions), no mains gas and few pavements, with most pedestrian access around the village sharing the roads with vehicles. Further development should focus on individual houses or small groups of two or three within the existing main settlement and/or conversion of unused buildings in the countryside. This approach is sustainable and proportionate and has served Rotherwick well over recent years”*.
74. A further representation states *“We would question the lack of work regarding establishing even a rough figure for the housing need within the parish, let alone the lack of an identification of a specific number which represents the need. The Planning Advice Service (PAS) advises that it is best practice for NDPs to identify housing need through evidence gathering even when the Local Authority does not have an NPPF- compliant Local Plan in place. This allows the NDP to have greater control over the allocation of a housing target by the local authority following the adoption of a new Local Plan. The recent Strategic Housing Market Assessment (SHMA) that was carried out jointly by Hart with Rushmoor and Surrey Heath determined that Hart’s housing need is 7,500 for the period 2011 – 2032, which equates as a need for 370 dwellings per year, and has been noted in the NDP. Rotherwick sees inappropriate development as a threat to the character however development should also be viewed as a method of ensuring the continued viability of the local community as well as providing opportunities for young people to live within the parish and to retain these young people. Without providing opportunities for young people and families to live within the parish, the local demographic will skew to the older generation who have owned homes in Rotherwick for many years. This will be a long term issue for the parish as an ageing demographic will lead to an inevitable under-use of some local facilities and will impact on the viability and continued sustainability of Rotherwick. Paragraph 70 of the NPPF states that policies should “guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs”. This can be achieved through positive planning and by considering the long term impacts for the whole plan period up to 2032 rather than the immediate”. “The NDP claims to comply with*

*the Basic Condition which states that the NDP must “contribute to the achievement of sustainable development” however the NDP does not identify particular development sites or specific development proposals. The NDP does not suggest either a robust figure or identify a range of the housing need for the parish. This appears that the NDP is not considering the long term implications for the parish with regards to provision of housing and far from promoting sustainable development, the NDP appears to be restrictive to any development bar minor infill developments within the existing settlement boundary. This approach will provide little or no opportunities for the retention of young people unless they are in a position to inherit or purchase an existing dwelling. We believe that Rotherwick can sustain small extensions which will contribute towards the provision of such homes. The access to existing facilities within Hook and its anticipated growth means that Rotherwick has the capability of sustaining some growth as it is not wholly reliant on the local facilities provided within the parish itself but can access the facilities within Hook. The NDP should acknowledge that there will be a requirement for such homes, albeit this is likely to be small in comparison with larger settlements, and an attempt should at least be made to identify such need. Therefore, it is difficult to say that the NDP in its current form meets the basic condition regarding sustainable development and can be interpreted as being restrictive to development whilst failing to plan positively over the plan period up to 2032. It is understandable that the Policy states that new development will be concentrated within the Rotherwick village settlement boundary however this does provide little scope for providing land for such development. The settlement boundary encompasses only two roads and the existing developments adjacent to this. Therefore, there is little available land for new development, except for land which is already built on or through infill development. Whilst this approach will provide for potential development, this will be of such a small and insignificant number that it will make little or no difference to the future of the parish. It is appreciated that Rotherwick wishes to minimise development as much as possible however we are concerned that such an approach will be hugely restrictive to any development and will threaten the future viability of the parish and its local facilities. There must be a thorough assessment as to whether this approach meets two of the three strands of sustainable development as identified by the NPPF of social and economic roles. The lack of an assessment of housing need and future demographic change means that this plan is prepared on the basis of the prevailing conditions now remaining the status quo for the entire plan period. This surely will not be the case given the increasing levels of housing*

*need across the housing market area. It is not anticipated that there will be an expectation that Rotherwick's population will be swelled by substantially high numbers of people however the parish must accept that over the plan period there will be a housing need, albeit that this is likely to be relatively low. There is no incentive or assistance for young people in the parish to be retained or to attract young families to the parish. Small scale, carefully managed development is possible outside the settlement boundary and this should be considered however without establishing need the parish cannot determine how much development is necessary. Even a relatively low need, for example of 20 dwellings over the plan period, cannot be accommodated through infill development within the settlement boundary alone. However, the parish do not know how much development is required and whether this can be accommodated in the settlement boundary. On this basis, it is difficult to argue that the plan is positively prepared and that it complies with the basic condition relating to sustainable development."*

75. The Framework states "*all plans should be based upon and reflect the presumption in favour of sustainable development*"<sup>37</sup> and critically it will mean that neighbourhoods should "*plan positively to support local development*"<sup>38</sup>. It is necessary to consider whether or not Policy SP02 has sufficient regard to these components of the Framework.
76. The Neighbourhood Plan includes a tightly drawn settlement boundary. A settlement boundary tightly drawn around the existing built form of a settlement is rarely likely to be acceptable in the absence of opportunities to accommodate new housing development to meet local needs. The settlement boundary proposed to be designated by Policy SP02 provides opportunity for new homes within the settlement boundary and conditional opportunity for new homes achieved by conversion of existing buildings beyond the settlement boundary. I consider the Policy does plan positively to support local development.
77. The Policy does not place any cap on the number of dwellings that can be built within the settlement boundary. The Neighbourhood Plan also envisages some residential development may occur outside the settlement boundary subject to limiting criteria. The Policy does not limit or cap the amount of development that can occur in the Plan area as a whole. The overall approach to new housing development is consistent with the role for Neighbourhood Plans identified in the

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<sup>37</sup> Paragraph 15 National Planning Policy Framework 2012

<sup>38</sup> Paragraph 16 National Planning Policy Framework 2012

Framework to shape and direct development in their area, and is consistent with the presumption in favour of sustainable development.

78. I have earlier in my report concluded that the Neighbourhood Plan can proceed in advance of the emerging Local Plan. The Guidance has on 11 February 2016 been revised as far as it relates to these circumstances.<sup>39</sup> The Guidance states: *“Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its Local Plan. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. Although a draft Neighbourhood Plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, up-to-date housing needs evidence is relevant to the question of whether a housing supply Policy in a neighbourhood plan or Order contributes to the achievement of sustainable development. Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- *the emerging neighbourhood plan*
- *the emerging Local Plan*
- *the adopted development plan*

*with appropriate regard to national Policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging Local Plan, including housing supply policies. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the Policy which is contained in the last document to become part of the development plan. Neighbourhood plans should consider providing indicative delivery timetables, and allocating reserve sites to ensure that emerging evidence of housing need is addressed. This can help*

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<sup>39</sup> National Planning Practice Guidance Paragraph:009 Reference ID: 41-009-20160211

*minimise potential conflicts and ensure that policies in the neighbourhood plan are not overridden by a new Local Plan.”<sup>40</sup>*

79. I am mindful of the fact that should there ultimately be a conflict between the Neighbourhood Plan, and the Local Plan when adopted; the matter will be resolved in favour of the plan most recently becoming part of the Development Plan, however the Guidance is clear in that potential conflicts should be minimised.

80. Policy SP02 should be considered as a relevant policy for the supply of housing in so much as it makes provision for development within the defined settlement boundary and because of its approach to development proposals beyond that defined boundary.<sup>41</sup> The Guidance states *“Neighbourhood plans are not obliged to contain policies addressing all types of development. However, where they do contain policies relevant to housing supply, these policies should take account of latest and up-to-date evidence of housing need. In particular, where a qualifying body is attempting to identify and meet housing need, a local planning authority should share relevant evidence on housing need gathered to support its own plan-making.”<sup>42</sup>*

81. It is not the function of a neighbourhood plan to prepare strategic planning policies to meet assessed needs over a Local Plan area<sup>43</sup>. It is necessary to consider whether or not Policy SP02 which is relevant to housing supply demonstrates that it has taken account of latest and up-to-date evidence of housing need. In a representation the District Council states *“Due to the early stage of the Local Plan process the Council does not have an up to date housing target within which Rotherwick Parish Council is able to prepare its Plan. The District Council has undertaken a joint SHMA (December 2014) with Rushmoor and Surrey Heath Councils and the outcome of this<sup>44</sup>, has been used to inform the District land supply position. As at October 2015, the Council identified a 6.7year housing land supply<sup>45</sup>. At present, the precise housing target to be taken forward through the new Local Plan is still to be determined. The SHMA is currently being revised, and there are on-going discussions with the other Councils*

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<sup>40</sup> Paragraph: 009 Reference ID: 41-009-20160211 Planning Practice Guidance

<sup>41</sup> The Court of Appeal judgment [2016] EWCA Civ 168 17 March 2016 concerning the meaning and effect of government Policy in paragraph 49 of the Framework. A relevant Policy for the supply of housing includes both policies providing positively for the supply of new housing and other policies (counterpart policies) whose effect is to restrain the supply by restricting housing development in certain parts of the authority’s area.

<sup>42</sup> Paragraph: 040 Reference ID: 41-040-20160211 Planning Practice Guidance

<sup>43</sup> Gladman Developments v Aylesbury Vale District Council 2014 EWHC 4323 (Admin)

<sup>44</sup> With a slight upward adjustment for estimated employment growth following discussion at a Public Inquiry

<sup>45</sup> Hart District Council Five-year housing land supply position statement 1 October 2015

*within the housing market area (Rushmoor and Surrey Heath) as to whether there is likely to be a shortfall of unmet needs within their authorities and how this might be accommodated. The District Council has undertaken an early consultation on potential strategies for meeting future growth<sup>46</sup>. This sought views on three possible options: dispersal; one or more urban extensions; a new settlement; or a combination of options. There has been no decision by the District Council as to which of these options, or combination of options, will be progressed through the Local Plan. As part of the dispersal option, the Council has also sought views on a range of sites identified through the Strategic Housing Land Availability Assessment (SHLAA). There are a number of SHLAA sites available in Rotherwick that are currently being assessed through the local plan process. No decision has been taken by the District Council as to whether these sites should be taken forward through the Local Plan. This is still to be determined and will be dependent on the final number of new homes to be met across the District and the overall strategic approach to new development as well as other elements of the evidence base. A Regulation 18 consultation on a draft Hart Local Plan (Part1) is scheduled for autumn 2016. That will set out the proposed housing target, strategy and site allocations. National Planning Practice Guidance [ID 41-009-20160211] seeks to ensure that any conflict between neighbourhood plans and emerging Local Plans are avoided. At present, there is much uncertainty about the level and location of future housing development in the District, however, there remains a possibility that one or more site allocations may be identified in Rotherwick over the life of the Neighbourhood Plan. In order to accommodate this scenario, the District Council suggests that an additional criterion is added in to the first part of Policy SP02: Elsewhere development will only be permitted where: a) It is allocated within the District Local Plan; or b) It is specifically provided for by Policy BE03 in this Plan; and c) etc.” I agree that given the current circumstances regarding Local Plan preparation this approach offers a practical way forward and I have recommended an appropriate modification.*

82. I am satisfied it is appropriate that the Neighbourhood Plan should be made having regard to the Guidance issued by the Secretary of State with respect to taking account of latest and up-to-date evidence of housing need when seeking to introduce a Policy relevant to housing supply.

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<sup>46</sup> Refined Options for Delivering New Homes February 2016 - public consultation until 18 March 2016

83. In reaching this conclusion I have taken into account the provisions of the Framework relating to demonstration of a five year supply of housing land and the position in Hart District. In the context of paragraph 49 of the Framework whenever a five-year supply can be demonstrated during the plan period, Policy SP02 once part of a made Neighbourhood Plan, should be regarded as up to date. I have also taken into account the statement in the Submission Plan that “the Parish Council will consider the need for review of this NDP no less frequently than every five years in line with good practice”. I agree that this commitment to review represents good practice.
84. I am satisfied the Policy adequately reflects the national planning Policy approach to development in open countryside subject to my recommended modification of Policy BE03 presented later in my report. However, as the Policy relates to all types of development it does require modification in order to have sufficient regard to national Policy in respect of support for economic growth in rural areas. I have recommended a modification so that the Policy has regard to paragraph 28 of the Framework.
85. The terms “*between other groups of dwellings*” and “*the rural nature and the integrity of the natural environment will be conserved*” are imprecise and I therefore recommend modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. As Planning Policy needs to serve the public interest I recommend a modification to clarify the identified perspectives to be protected are restricted to those visible from locations that are freely accessible to the general public. In response to representations by Hart Council in respect of Policy NE03, with which I agree, I have also recommended a modification of Policy SP02 to state schemes will be supported where new development includes flood risk adaptation and mitigation for the impacts of climate change. I have earlier in my report referred to the need to utilise the term supported rather than permitted.
86. Neighbourhood plans should not set local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. Neighbourhood Plans should not be used to apply national technical standards. Measures relating to flood resilience and resistance and external noise will remain a matter to be dealt with through the planning process, in line with the existing national policy and guidance.<sup>47</sup> All new homes have to meet the

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<sup>47</sup> Written Statement to Parliament by the Secretary of State for Communities and Local Government 25 March 2015

mandatory national standard set out in the Building Regulations. Local Plans can require an optional tighter requirement where there is a clear local need but the Guidance is silent with respect to neighbourhood plans. The requirement to “*minimise*” greenhouse gas emissions is imprecise in that the minimum will be unknown. I have recommended a modification to require reduction. A reduction is capable of demonstration thus providing a practical framework within which decisions on planning applications can be made, as required by paragraph 17 of the Framework.

87. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with supporting a prosperous rural economy; promoting sustainable transport; delivering a wide choice of high quality homes; requiring good design; promoting healthy communities; meeting the challenge of climate change and flooding; and conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

### **Recommended modification 3:**

#### **In Policy SP02**

##### **In the first part of the Policy:**

- **delete “permitted” and insert “supported”**
- **insert new a) “It is allocated within the District Local Plan; or”**
- **insert new b) “It supports the sustainable growth and expansion of all types of business and enterprise in well-designed new buildings in the Parish; or promotes the development and diversification of agricultural and other land based rural businesses in the Parish; or supports sustainable rural tourism and leisure developments in the Parish; or”**
- **re-list a) and b) as c) and d)**

##### **In the second part of the Policy:**

- **delete “and between other groups of dwellings”**
- **delete “b) the rural nature and the integrity of the natural environment will be conserved; and” and re-list c) and d) as b) and c)**

- in c) after “conserved” insert “and not significantly adversely affected”
- after “Annex A.2” insert “(when viewed from publically accessible locations)”
- delete “minimises” and insert “reduces”
- after “adaptation measures” continue “including flood risk adaptation and mitigation measures.”

### **Policy SP03: Countryside features**

88. This Policy states development proposals that adversely affect specific countryside features will not be supported. The Policy also states new development will be expected to protect and promote biodiversity.

89. In a representation the Environment Agency states the pre-submission wording more readily met the requirement of the Framework to plan positively to support local development. My role is to consider whether the Submission Plan meets the basic conditions and other requirements. Demonstration of any adverse effect on the named countryside features would represent too low a bar to development. I consider a modification to refer to significant adverse effect would achieve a Policy more clearly reflecting the presumption in favour of sustainable development.

90. The Policy includes provision relating to hedgerows. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations. It is however appropriate for the Neighbourhood Plan to seek to introduce an additional regime of protection to apply in the context of development proposals.

91. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

#### **Recommended modification 4:**

**In Policy SP03 before “adversely” insert “significantly”**

## **Policy SP04: Quality of life**

92. This Policy seeks to ensure development proposals maintain local facilities, businesses, schools and farms. The Policy seeks to establish that proposals which support the use or consolidation of these facilities will be supported, and those proposals leading to loss or adverse impact on facilities will not be supported.
93. Clearly there may be circumstances when facilities are to be re-located to no less a standard of provision or where facilities are no longer viable, or not required, and this can be demonstrated, for example, through unsuccessful appropriate marketing attempts. I recommend an appropriate modification in order to accommodate these circumstances.
94. The term “*local facilities*” is imprecise. I therefore recommend a modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.
95. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with building a strong competitive economy; supporting a prosperous rural economy; and promoting healthy communities. Subject to the recommended modification this Policy meets the basic conditions.

### **Recommended modification 5:**

#### **In Policy SP04**

- **after “local facilities” insert “(identified in Policy CP02)”**
- **continue the Policy “unless it can be demonstrated that the facilities are no longer required or that they are being re-provided to no less a standard on a no less accessible appropriate local site”**

## **Policy NE01: Local Green Spaces**

96. This Policy seeks to designate seven Local Green Spaces where development will not be permitted that would lead to loss or adverse

effect to accessibility, appearance, general quality or amenity value. The wording of the Policy attempts to introduce a description, criteria and circumstances that differ from those set out in the Framework. I recommend a modification so that the Policy reflects the effect of Local Green Space designation established in the Framework. I have earlier in my report referred to the suggestion made by Historic England that the Policy should be renamed to also refer to the Historic Environment. I have not recommended a modification in this respect as it is not necessary to meet the basic conditions.

97. The Framework states *“Local communities through local and neighbourhood plans should be able to identify for special protection green areas of particular importance to them. By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances. Identifying land as Local Green Space should therefore be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or reviewed, and be capable of enduring beyond the end of the plan period.”*

98. I find the Local Green Space designations are being made when a neighbourhood plan is being prepared, and I have seen nothing to suggest the designations are not capable of enduring beyond the end of the plan period. The Guidance states *“Designating any Local Green Space will need to be consistent with local planning for sustainable development in the area. In particular, plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making.”* My examination of Policy SP02 has included consideration whether the Submission Neighbourhood Plan makes provision for sufficient new homes and I have concluded a modification of the Plan is necessary in this respect. The Local Green Space designations will only compliment investment in sufficient homes if the modification that I have recommended in respect of Policy SP02 is accepted. In the absence of that modification I recommend the Local Green Space designations should not be pursued. Subject to the recommended modification of Policy SP02 the intended designations are consistent with the local planning of sustainable development contributing to the promotion of healthy communities, and conserving and enhancing the natural environment, as set out in the Framework.

99. The Framework states that: *“Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:*

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.*

I find the intended Local Green Space designations relates to green space that is in reasonably close proximity to the community it serves; and the green area is local in character and is not an extensive tract of land.

100. The Neighbourhood Plan states the areas of proposed Local Green Space have been identified *“as a result of community engagement, with careful assessment against the NPPF criteria.”* The submission Neighbourhood Plan, including the descriptions of significance set out in Annex B, offers sufficient evidence for me to conclude the areas proposed for designation as Local Green Space are demonstrably special to a local community and hold a particular local significance.

101. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. Subject to the recommended modification and the recommended modification of Policy SP02 this Policy meets the basic conditions.

**Recommended modification 6:**

**In Policy NE01**

**After “designated Local Green Space” delete the remainder of the final paragraph and insert “other than in very special circumstances, for example where essential infrastructure cannot be provided in any other place”**

## **Policy NE02: Rural features**

102. This Policy seeks to ensure development proposals protect, and where appropriate enhance, the characteristic rural features of the Parish. The Policy also seeks to protect from development named rural features unless the need for, and benefits of, development in that location clearly outweigh the loss. The Policy also includes provision relating to hedgerows.
103. I have earlier in my report referred to the suggestion made by Historic England that the Policy should be renamed to also refer to the Historic Environment. I have not recommended a modification in this respect as it is not necessary to meet the basic conditions. Another representation states support on the basis the Policy seeks to protect and enhance rural features.
104. The term “including” when referring to characteristic rural features leaves uncertainty for parties involved in preparing development schemes. I therefore recommend a modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. I have earlier in my report referred to the need to use the term “will not be supported” rather than “*permission will be refused*”.
105. The Policy includes provision relating to hedgerows. The Hedgerows Regulations 1997 establish a balanced regime to protect hedgerows in specified locations. It is however appropriate for the Neighbourhood Plan to seek to introduce an additional regime of protection to apply in the context of development proposals.
106. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

### **Recommended modification 7:**

#### **In Policy NE02**

- **delete “including” and insert “namely”**
- **delete “Permission will be refused” and insert “Proposals will not be supported” in both paragraphs 2 and 3**

### **Policy NE03: Biodiversity and nature conservation**

107. This Policy seeks to establish a requirement, where appropriate, for development proposals to conserve or enhance biodiversity and in particular to safeguard from development the Hampshire and Isle of Wight Trust property at College Copse Farm and designated Sites of Importance for Nature Conservation (SINCs). The Policy also seeks to establish proposals that result in loss or harm to natural habitat, other than that which has limited or no value, will not be supported unless effective mitigation measures are proposed.
108. In a representation Thames Water states sewerage infrastructure is essential in its own right not just to support biodiversity. Thames Water recommend inclusion in the Neighbourhood Plan of a Policy and text relating to wastewater, sewerage and water supply infrastructure. There is no requirement for a neighbourhood plan to include any particular types of Policy and it is not within my role to recommend that additional areas of Policy should be included in the Neighbourhood Plan.
109. A representation by Hart Council requests re-wording of a sentence in Paragraph 51 of the Submission Plan to clarify that flood risk will increase as a result of climate change. I have earlier in my report recommended a modification to Policy SP02 stating schemes will be supported where new development includes flood risk adaptation and mitigation for the impacts of climate change. I have also dealt with the request for re-wording of Paragraph 51 in this respect and in respect of another point made by Hart Council relating to ground water entering foul sewers in the Annex to my report as these modifications are not necessary to meet the basic conditions.
110. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with meeting the challenge of climate change and flooding, and conserving and enhancing the natural environment. This Policy meets the basic conditions.

#### **Policy NE04: Rights of Way**

111. This Policy seeks to ensure development proposals maintain or enhance the network of footpaths and rights of way.
112. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with promoting sustainable transport; requiring good design; promoting healthy communities; and conserving and enhancing the natural environment. This Policy meets the basic conditions.

#### **Policy BE01: Design**

113. This Policy seeks to establish design principles that development proposals will be expected to meet. The Policy also states infill development within the settlement boundary will be expected to maintain appropriate spacing between buildings having regard to the immediate layout, character and setting of the application site. The Policy also encourages use of renewable, decentralised and/or low carbon energy generation technology, and water harvesting.
114. A representation states the Policy helps to clearly define how new development will be delivered in accordance with the historic character and design attributes found throughout the Conservation Area.
115. Use of the terms “*will be expected to*” and “*will be encouraged*” in the Policy leave uncertainty as to how proposals will be responded to should expectations or encouragements not be positively responded to. I therefore recommend a modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. For the same reason I also recommend the Policy, when referring to Annex D, should specify Section 4 which is where the Design Principles are to be found.
116. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic

policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with requiring good design, and conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 8:**

**In Policy BE01**

- **commence the first and second paragraphs with “To be supported”**
- **In the first and second paragraphs delete “will be expected to” and insert “should”**
- **after “Annex D” insert “Section 4”**
- **delete “encouraged” and insert “supported”**

**Policy BE02: Conservation Area**

117. This Policy seeks to establish design principles that development proposals in the Conservation Area will be expected to comply with.

118. A representation states the Policy helps to clearly define how new development will be delivered in accordance with the historic character and design attributes found throughout the Conservation Area.

119. Use of the term “*will be expected to*” in the Policy leaves uncertainty as to how proposals will be responded to should expectations not be positively responded to. I therefore recommend a modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. For the same reason I also recommend the Policy should refer to buildings of townscape merit in order to correspond to the description in Annex G, and when referring to Annex D should specify Section 4 which is where the Design Principles are to be found.

120. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework

concerned with requiring good design, and conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

#### **Recommended modification 9:**

##### **In Policy BE02**

- **commence the Policy with “To be supported”**
- **delete “will be expected to” and insert “should”**
- **after “Annex D” insert “Section 4”**
- **before “merit” insert “townscape”**

#### **Policy BE03: Dwellings in the countryside**

121. This Policy seeks to establish criteria to apply if replacement or extension of an existing dwelling in the countryside is to be permitted. The Policy also seeks to establish criteria to apply for the conversion of an existing building in the countryside to a dwelling to be permitted. I have earlier in my report recommended a modification so that the term “permitted” is replaced by the term “supported”.

122. A representation states there should not be restrictions on development and states a desire to “renew” a house situated on an unspecified area of 69 acres. In supporting the Policy, another representation requests the existing settlement boundary is retained. Earlier in my report I concluded that Policy SP02, relating to the location and nature of development, would only have sufficient regard for national planning policy if Policy BE03, which is referred to in that other Policy, is modified to reflect the national approach to development in the open countryside. I recommend Policy BE03 is modified so as to have regard to paragraph 55 of the Framework which states *“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as: • the essential need for a rural worker to live permanently at or near their place of work in the countryside; or • where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or • where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or • the exceptional quality or innovative nature of the design of the dwelling. Such a design should: – be truly*

*outstanding or innovative, helping to raise standards of design more generally in rural areas; – reflect the highest standards in architecture; – significantly enhance its immediate setting; and – be sensitive to the defining characteristics of the local area.”*

123. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. Subject to the recommended modification the Policy has regard to the components of the Framework concerned with delivering a wide choice of high quality homes and conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 10:  
In Policy BE03**

- **replace references to “permitted” with “supported”**
- **continue the Policy with “New isolated homes in the countryside will only be supported where there are special circumstances in accordance with paragraph 55 of the Framework”**

**Policy CP01: Rural nature**

124. This Policy seeks to establish that development proposals which adversely affect the tranquillity, rural nature and layout of highways and other rights of way will not be permitted. To be supported the Policy also requires development proposals to recognise and respect the intrinsic character and beauty of the countryside and its community in general, and in particular to minimise the adverse impact of vehicular traffic.

125. I have earlier in my report referred to the need to use the term supported rather than permitted. Whilst the intrinsic character of the countryside and its community in general is capable of identification beauty of the countryside, and indeed its community, is too subjective a term for the Policy to provide a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

126. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their

community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with requiring good design; promoting healthy communities; and conserving and enhancing the natural environment. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 11:  
In Policy CP01**

- delete “and beauty”
- delete “permitted” and insert “supported”

**Policy CP02: Community facilities**

127. This Policy seeks to establish that development proposals that would result in loss or detriment to the existing community use of 12 named existing community services or facilities will not be supported. The Policy also seeks to encourage proposals to maintain or improve existing community facilities subject to stated criteria.

128. A representation by the Hampshire and Isle of Wight Wildlife Trust requests that College Copse Farm should be removed from the Policy stating *“College Copse Farm is a working farm that provides valuable grazing land for our herd, when not required on important wildlife sites and a safe haven for our breeding stock to calve. The adjacent copse is managed for its nature conservation value. Whilst the Trust does support and provide educational and volunteering activities, these are supervised activities only and no unsupervised access is provided to the farm, or surrounding woodlands. As such we do not consider it appropriate to include the farm on the list of community facilities, since it is not an area where community led activities are the primary purpose. We therefore request that it is removed from the list.”* On this basis I recommend College Copse Farm is deleted from the policy and associated Map in Annex A.3.

129. The Framework refers to unnecessary loss of valued facilities and services and community’s ability to meet day to day needs. The Policy does not provide guidance as to how to respond to circumstances where a facility is no longer required. I therefore recommend a modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

130. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with promoting healthy communities. Subject to the recommended modification this Policy meets the basic conditions.

#### **Recommended modification 12:**

##### **In Policy CP02**

- **after “supported” insert “unless it has been demonstrated the services or facilities are not viable through unsuccessful reasonable marketing for a period of six months, or the services or facilities are to be re-provided to an equivalent standard and convenience”**
- **delete “College Copse Farm, Ridge Lane” from the list and from the associated Map at Annex A.3**

##### **Policy CP03: Commercial premises and land**

131. This Policy seeks to establish a presumption against the loss of commercial premises or land unless no longer commercially viable and unsuccessfully marketed.

132. The Policy refers to future employment opportunities however these cannot be anticipated with any certainty. I therefore recommend a modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework.

133. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with building a strong competitive economy and supporting a prosperous rural economy. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 13:**

**In Policy CP03 insert “potential” before “future employment opportunities”**

**Policy CP04: Employment**

134. This Policy seeks to establish conditional support for proposals to convert traditional, vernacular rural or agricultural buildings for Class B1 business use.
135. The Policy includes the term “*unacceptable*” in three places when describing impacts of proposals. Use of the term “significant” would reserve judgement as is necessary in a decision making process. I therefore recommend a modification so that the Policy provides a practical framework within which decisions on planning applications can be made as required by paragraph 17 of the Framework. I also note the Framework states “*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*” I recommend an appropriate modification in this respect.
136. The Policy seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Policy is in general conformity with the strategic policies contained in the Development Plan, the Hart District Local Plan (Replacement) 1996 – 2006 and First Alterations – Saved Policies. The Policy has regard to the components of the Framework concerned with building a strong competitive economy; supporting a prosperous rural economy; conserving and enhancing the natural environment; and conserving and enhancing the historic environment. Subject to the recommended modification this Policy meets the basic conditions.

**Recommended modification 14:**

**In Policy CP04**

- **in b) delete “unacceptable” and insert “significant”**
- **in c) delete “unacceptable” and insert “significant severe”**
- **in e) delete “unacceptable” and insert “significant adverse”**

## Summary and Referendum

137. I have recommended the following modifications to the Submission Version Plan:

**Recommended modification 1:**

**The basis of decision making on planning applications should be clarified as indicated**

**Recommended modification 2:**

**In Policy SP01**

**Delete “will be expected to comply with the design principles” and insert “should include evidence to demonstrate how the proposed design has sought to sustain the Parish’s character including reference to the parameters set out”**

**Recommended modification 3:**

**In Policy SP02**

**In the first part of the Policy:**

- **delete “permitted” and insert “supported”**
- **insert new a) “It is allocated within the District Local Plan; or”**
- **insert new b) “It supports the sustainable growth and expansion of all types of business and enterprise in well-designed new buildings in the Parish; or promotes the development and diversification of agricultural and other land based rural businesses in the Parish; or supports sustainable rural tourism and leisure developments in the Parish; or”**
- **re-list a) and b) as c) and d)**

**In the second part of the Policy:**

- **delete “and between other groups of dwellings”**
- **delete “b) the rural nature and the integrity of the natural environment will be conserved; and” and re-list c) and d) as b) and c)**
- **in c) after “conserved” insert “and not significantly adversely affected”**
- **after “Annex A.2” insert “(when viewed from publically accessible locations)”**
- **delete “minimises” and insert “reduces”**

- after “adaptation measures” continue “including flood risk adaptation and mitigation measures.”

**Recommended modification 4:**

In Policy SP03 before “adversely” insert “significantly”

**Recommended modification 5:**

In Policy SP04

- after “local facilities” insert “(identified in Policy CP02)”
- continue the Policy “unless it can be demonstrated that the facilities are no longer required or that they are being re-provided to no less a standard on a no less accessible appropriate local site”

**Recommended modification 6:**

In Policy NE01

After “designated Local Green Space” delete the remainder of the final paragraph and insert “other than in very special circumstances, for example where essential infrastructure cannot be provided in any other place”

**Recommended modification 7:**

In Policy NE02

- delete “including” and insert “namely”
- delete “Permission will be refused” and insert “Proposals will not be supported” in both paragraphs 2 and 3

**Recommended modification 8:**

In Policy BE01

- commence the first and second paragraphs with “To be supported”
- in the first and second paragraphs delete “will be expected to” and insert “should”
- after “Annex D” insert “Section 4”
- delete “encouraged” and insert “supported”

**Recommended modification 9:**

In Policy BE02

- commence the Policy with “To be supported”
- delete “will be expected to” and insert “should”
- after “Annex D” insert “Section 4”
- before “merit” insert “townscape”

**Recommended modification 10:**

**In Policy BE03**

- replace references to “permitted” with “supported”
- continue the Policy with “New isolated homes in the countryside will only be supported where there are special circumstances in accordance with paragraph 55 of the Framework”

**Recommended modification 11:**

**In Policy CP01**

- delete “and beauty”
- delete “permitted” and insert “supported”

**Recommended modification 12:**

**In Policy CP02**

- after “supported” insert “unless it has been demonstrated the services or facilities are not viable through unsuccessful reasonable marketing for a period of six months, or the services or facilities are to be re-provided to an equivalent standard and convenience”
- delete “College Copse Farm, Ridge Lane” from the list and from the associated Map at Annex A.3

**Recommended modification 13:**

**In Policy CP03 insert “potential” before “future employment opportunities”**

**Recommended modification 14:**

**In Policy CP04**

- in b) delete “unacceptable” and insert “significant”
- in c) delete “unacceptable” and insert “significant severe”
- in e) delete “unacceptable” and insert “significant adverse”

138. I have also made a recommendation for modification of the Neighbourhood Plan in the Annex below.

139. I am satisfied that the Neighbourhood Plan<sup>48</sup>:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations; and

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<sup>48</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- subject to the modifications I have recommended, meets all the statutory requirements set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and meets the basic conditions:
  - having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the 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 of the authority (or any part of that area);
  - does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations; and
  - the making of the neighbourhood plan is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects.<sup>49</sup>

**I recommend to Hart District Council that the Rotherwick Neighbourhood Development Plan for the plan period up to 2032 should, subject to the modifications I have put forward, be submitted to referendum.**

140. I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>50</sup> I have seen nothing to suggest the referendum area should be extended beyond the designated Neighbourhood Area.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the area that was designated by the District Council as a Neighbourhood Area on 2 October 2014.**

<sup>49</sup> Prescribed for the purposes of paragraph 8(2) (g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>50</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

## Annex: Minor Corrections to the Neighbourhood Plan

I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>51</sup> The Neighbourhood Plan includes a number of errors that are typographical in nature or arising from updates. I recommend these are corrected as follows:

A number of consequential modifications to the general text of the Neighbourhood Plan will be necessary as a result of recommended modifications relating to policies.

Paragraph 51 should be adjusted in relation to representations of Hart Council regarding flood risk and climate change, and regarding groundwater entering foul sewers.

Hampshire County Council has requested review of the boundary through Whitewater C of E school buildings in Annex A.1.

A representation requests the Map at Annex 3 should show the full extent of the golf course and

A representation states that the Map at Annex A.4 does not reflect the full extent of certain rights of way. Policy NE04 accommodates this possibility through use of the word "including", however Annex A.4 should state the source map.

The Environment Agency advise the document referred to in paragraph 23 of the Neighbourhood Plan should be the Thames River Basin District River Basin Management Plan.

**Recommended modification 15:  
Identified errors that are typographical in nature or arising from updates should be corrected. Modification of general text will be necessary to achieve consistency with the modified policies**

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30 June 2016  
REPORT ENDS

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<sup>51</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990