

Initial Comments of the Independent Examiner
Prepared by JOHN SLATER BA(Hons), DMS, MRTPI
John Slater Planning Ltd
28th July 2023

Introductory Remarks

1. As you will be aware, I have been appointed to carry out the examination of the Southbourne Modified Neighbourhood Plan. I have carried out my initial review of the Plan and the accompanying documents which I have been sent. I visited the parish on Tuesday 25th July 2023. In total I spent two and half hours in the parish, which included a lovely walk along the Prinsted shoreline, although the tide was out. I visited each of the settlements and visited each of the local green spaces and I noted the sites which were the subject of Regulation 16 representations.

2. I can confirm that the examination of this Plan will proceed by the consideration of the written material only. From the outset, I would also wish to commend the clarity of the written material in the plan document, although I would point out that the basic conditions test, as shown in Figure 1, does not need to include having regard to listed buildings or impact on conservation areas. Those elements of the basic conditions only apply to neighbourhood development orders.

3. Set out in the following paragraphs are a number of questions or requests for clarification or comments which are directed to the Parish Council or in some cases to Chichester District Council. Such requests are quite normal during the examination process.

Modification Statement

4. This examination is being carried out into what is to be a modified version of the Southbourne Parish Neighbourhood Plan 2014-2029, which was originally made in December 2015. As a modification, there are some additional stages required by virtue of Schedule 2A of the Planning and Compulsory Purchase Act 2004. Section 10 states that the examiner must first determine whether the modifications are so significant or substantial as to change the nature of the neighbourhood plan. That determination would have the effect of triggering the need for a referendum, if the modified plan passes examination. That section places an obligation on me to notify the qualifying body, Southbourne Parish Council and Chichester District Council, as local planning authority, as to my determination and my reasons for coming to that decision.

5. I have concluded that the changes are so substantial that the nature of the neighbourhood plan will be changed. This finding is in line with the conclusions that have previously been reached by the Parish Council, which are set out in Appendix A of the submission document and which have also been agreed by Chichester District Council. The reasons are set out in paragraphs 3.1 to 3.6 of Appendix A. I concur with those reasons.

6. In view of my decision, I am required by the legislation to notify the Parish Council and the District Council of this conclusion, which can allow the Parish Council to decide whether it wishes to proceed with the proposal or withdraw it. I do appreciate that this is essentially an academic exercise, as the Parish Council has already recorded its view that if I come to that view, it would not challenge that conclusion. I do however have to offer the Parish Council the opportunity to consider whether it still wishes to proceed with the new plan in the light of my decision.

[Southbourne Parish Council wishes to proceed with examination and referendum.](#)

7. I fully expect the Parish Council to confirm that it wishes the examination to proceed and the rest of this document is predicated on the basis that the examination will continue, but I do need to receive that formal confirmation.

Regulation 16 Comments

8. I would like to offer the Parish Council the opportunity to comment on the representations that were submitted as part of the Regulation 16 consultation. I am not expecting a response in respect of every point, just those that the Parish Council feels it wishes to respond to.

SOUTHERN WATER (SPC - AGREED)

Amend Policy SB20 A1 by inserting “sufficient wastewater conveyance and treatment capacity”; and insert a new criterion “SB 20A (v) Surface water should be managed as close to source as possible, following the drainage hierarchy, and will not be permitted to drain to the foul or combined sewer network.”

CHICHESTER HARBOUR CONSERVANCY (SPC - AGREED)

Amend Policy SB1 criteria 1 by inserting “..... in the neighbourhood plan and to avoid actual or perceived coalescence between settlements; and.....”

(NB See also Rep. from Paul White)

CHICHESTER DISTRICT COUNCIL

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| page 11 | para 33 – See SPC response to Examiner’s question (para. 13) on Policy SB2 |
| page 23 | Policy SB2 Land North of Cooks Lane – Change 12% biodiversity uplift to 10% (SPC - AGREED) |
| page 23 | Amend policy to reflect current split between open market and affordable housing (SPC - AGREED) |
| page 25 | Policy SB3 B Local Housing Needs – Change 2 or 3 bed dwellings to 1 or 2 bed dwellings. (see also Examiner’s questions para. 14) (SPC - AGREED) |
| page 37 | Policy SB10 – See SPC response to Examiner’s questions (paras 19-21). |
| page 39 | Policy SB11 Community Facilities/Shops – Suggest cross reference to Local Plan Appendix E Appropriate Marketing Guidance (SPC - AGREED) |
| page 41 | Policy SB12 Education – SPC considers this allocation should be retained. WSCC consulted but no response received. |
| page 43 | Policy SB13 Green and Blue Infrastructure – Gross development site area of more than 2 ha – See SPC response to Examiner’s question (para 28). |
| page 47 | Policy SB14 para. 5.72 - (see SPC response to Examiner’s questions (paras. 24 to 26) SPC considers that the Wildlife Corridors as shown in the NP should be retained (SPC - NOT AGREED) |
| page 56 | Policy SB19 Zero Carbon Buildings – See SPC response to Examiner’s questions (paras 32-33). |
| page 59 | Policy SB20 Water Efficiency – See SPC response to Examiner’s question (para 34). |

ENVIRONMENT AGENCY (SPC - AGREED)

para 5.67 – Amend by deleting reference to June 2020 so that the sentence becomes: "Aside from carbon capture, woodland planting could also secure nitrate mitigation, biodiversity and recreational benefits in line with current Natural England guidance on nitrate neutrality."

ANDREW BLACK CONSULTING (SPC - NOT AGREED)

Up-date. This site has been put forward for development at Reg.16 (though no planning application has yet been submitted). It may be worth noting that two appeals on a different site at Gosden Green

(nearby and to the west) have recently been dismissed. One was for business development (SB/20/00032/FUL; APP/L3815/W/20/3255125) and one for housing (SB/21/02238/FULEIA; APP/L3815/W/21/3289451). We mention them here because the appeals raised issues pertinent to this site. The first (business) one was dismissed on 20th February 2021 due to harm to the landscape and the Chichester Harbour AONB, and the second (housing) was dismissed on 22nd March 2023 due to the unacceptable effects on the character of the area including the Chichester Harbour AONB.

HENRY ADAMS obo WEST SUSSEX COUNTY COUNCIL (SPC - NOT AGREED)

Policy 16 Local Green Spaces no. 16 – Suggests deletion of designation at Field west of western arm of Prinsted Lane. (See response to Examiner’s question para.31)

STEPHEN JUPP+ others (SPC - AGREED)

Para. 5.72 and Plan D – Wildlife Corridors Policy SB 14 and SB13 – Suggests that para. 5.72 and Plan D are wrongly attached to Policy SB14 and should be moved to underwrite Policy SB13.

STEPHEN JUPP (SPC - NOT AGREED)

Policy 16 Local Green Spaces no. 5 - Suggests deletion of designation at Meadow View development. A similar proposal was made on behalf of the developer Pallant Homes at the Reg 14 stage. The developer signed a S106 agreement in July 2017 that this area would be a greenspace for the residents and wider community in perpetuity. Please refer to the Parish Council website <https://southbourne-pc.gov.uk/neighbourhood-plan/southbourne-parish-neighbourhood-plan-review-2019-2037-submission-plan/> then scroll down to Evidence Supporting Specific Policy, SB16, EV1 item 5.

CHURCH COMMISSIONERS (SPC - NOT AGREED)

(See SPC response to Examiner’s question para 22 on Policy SB12)

NOVA PLANNING obo METIS HOMES

Update: A planning application for 103 dwellings on the scrap yard and adjacent field (G&R Harris) is currently at appeal (SB/22/01283/FULEIA; APP/L3815/W/23/3318548). The Inquiry began on 11th July 2023 and ended 13th July 2023. A second, almost identical application (SB/00942/FULEIA) has been submitted by the same applicant to the District Council.

Habitat Regulation Appropriate Assessment

9. Can the District Council advise me whether it has yet completed the Appropriate Assessment and whether that has included considering any response from Natural England to the draft assessment? Please may I be provided with a copy of the final assessment and confirmation that it is now in the public domain. If it has not been published, can I be provided with an indication as to when I can expect to receive it, as it will be a determining factor in terms of when I can complete my examination?

Chichester Local Plan Review

10. Can the District Council update me on where the draft Local Plan is in terms of its progress – I note that the Regulation 19 submission version has been published. Has a date for its examination been set. In terms of the weight, I can give to the emerging policies, I note that nearly every policy is subject to representations of support and objections.

11. In terms of the adopted Chichester Local Plan, can the District Council confirm which of the policies I should be treating as strategic policy, when considering the basic condition test.

Policy SB1

12. I note that the settlement boundary is shown tightly drawn around the existing buildings at Bourne Community College, but the Policy SB12 allocation provides land for expanding the educational and recreational uses at the college. I realise that the allocation is for “outdoor educational and recreational uses” and any ancillary buildings. However, in the event of the school having to expand, in response to the likely scale of development that will be taking place in the area in the next few years, and secondly, the fact that the supporting text seems to be supporting an extension to the operational areas of the school, is there a case that there should be a loosening of the settlement boundary around the college, to allow it to extend without the new buildings having to be subject to policies appropriate to the countryside? I would welcome the Parish Council’s considerations as to whether the settlement boundary should be relaxed and what should be the appropriate boundary line.

Policy SB12 is intended to protect against the site being used for anything different. There are no immediate plans we are aware of for WSCC to use it either for recreational purposes or for new school buildings. If the Settlement Boundary was going to be changed in this area, we'd want it done as part of a comprehensive strategy for much larger scale growth in Southbourne. The current Local Plan doesn't require growth on this scale, the Neighbourhood Plan doesn't plan for it and WSCC have not asked for it, so we'd rather retain the allocation for the present and leave any decision on how this is handled for the future.

Policy SB2

13. I appreciate that the Parish Council’s allocation of this site was made on the basis that the planning permission had been granted, but not at that point implemented, as set out in paragraph 5.15 of the submission. Following my site visit, it appears that construction work is well underway on the site. I therefore assume that the relevant planning permission has actually now been formally implemented. I would welcome views as to whether it is still appropriate to include the site allocation within the plan as the development is underway. Should the plan, instead now be treating the site as a housing commitment, rather than a development plan allocation?

The Bloor Homes development at Cooks Lane is underway but there are still outstanding traffic/construction management issues being sorted out with WSCC Highways and they are continuing work on the 278 licences for road closures etc.

At present, do we think it likely it will be completed? Yes we do, but we can't make the Neighbourhood Plan on that basis. There is a possibility that it will falter given the state of the housing market. We think it important for the integrity of our Plan to treat it as an allocation. We are doing our best to navigate planning policy, which isn't easy when circumstances change!

Our strategy is to work with what we've got in the planning system i.e. to have a Neighbourhood Plan with the weight that comes with a housing allocation to tide us over until the new Local Plan has been adopted. We are also mindful of the legal opinion obtained by CDC that in order for SPNP3 to engage NPPF §14, retaining this allocation would be necessary (this followed CDC deciding to accept the SPNP2 examiner recommendations). We have had no reason to disagree with that advice and this is not unreasonable as we do not have control over the timing of the Local Plan context, or the submission / examination of the Neighbourhood Plan. (We appreciate that the NP is at examination now, but we do not know what the outcome will be.) It does not seem reasonable that we be expected to do all the work to get to this point and then end up with a Neighbourhood Plan that has very little weight (especially since we had to withdraw a Plan from examination that had a more substantial housing allocation).

But we would like to emphasise the practical arguments for keeping this as an allocation too. It is a large site; it is reasonable to anticipate issues with the housing market so delivery really is not guaranteed. Things can change – and we have been caught out before!

Policy SB3

14. Does the Parish Council have a view on whether the policy should also refer to the need for one-bedroom rental dwellings, as suggested by the District Council?

This Policy is based on the Housing Need Survey April 2020 commissioned from the District Council by the Parish Council. It concluded that the greatest need is for 1 and 2 bedroom dwellings, with the need for 2 bedroom in almost all categories being slightly greater, with much less need for 3 bedroomed properties. Therefore, the Policy SB3 B could be amended to read “The provision of 1 and 2 bed dwellings suitable for younger and older (downsizing) households.....”

Policy SB4

15. Can the Parish Council explain the logic, behind the stipulation that development within the AONB and its setting, is subject to a two-storey height restriction, except when it is, inter alia, it can be demonstrated that the building would not be visible from the South Downs National Park, but that height restriction does not apply to the rest of Southbourne parish, even if, for example, a three-storey building could be visible from the National Park?

It is important that the Plan has some flexibility, especially re: our ambitions as set out in policy 19 – we want to maximise opportunities for developers to voluntarily go beyond national minimum construction/energy standards, and giving them the option for building at a greater density is one way of doing this. It may also be the case that innovative, well-designed development might deliver more dwellings on less land, be taller but create less of an impact on views than would sprawling, lower density development. Virtually all building will be seen from the National Park, so it is the quality that counts.

We do not anticipate development inside the AONB at all, so this policy is precautionary. Also: the boundary of the AONB defines where there will be extra protection. All the Southbourne parish hamlets have some existing development within the AONB (the northern boundary is the A259). Being outside this boundary means it is held to different standard. Again, we want flexibility. We accept that development will happen and will be visible. We do not want ugly development but we do want to be open to modern, environmentally friendly development that perhaps prioritises walking/cycling over cars, etc.

Is the intention to restrict the height to 2 storeys seeking to prevent the insertion of rooms within the roof space?

No, we are not against that in principle, if done sensitively and so would support a recommended modification that clarifies this purpose. But we are mindful that we do need to retain a stock of small single storey dwellings.

16. Can the Parish Council clarify whether this design policy covers the whole of the parish area, including those settlements which are also subject to Policies SP5 – SB8 and should be clarified in the wording of the policy?

Yes, the design policy covers the whole Parish. We are happy to clarify that policies SB5-8 are in addition to this, and so would support a recommended modification with that purpose.

Policy SB9

17. Can I be provided with the evidence report which describes the local heritage value of each of the assets.

Please see:

<https://southbourne-pc.gov.uk/neighbourhood-plan/southbourne-parish-neighbourhood-plan-review-2019-2037-submission-plan/>

Then click on Evidence Supporting Specific Policies, and see SB9. The supporting evidence was collected using the template utilised by Oxford City Council (see Evidence supporting specific Policies SB9.EV3). The evidence is contained within the tables completed for each Local Heritage Asset.

Policy SB10

18. I do have some concerns with regard to this policy, particularly how and whether it relates to employment sites that lie outside of settlement boundaries, which I saw a number of, on my site visit, including the marinas. This policy seems to be more restrictive than the existing Policy 5 of the made neighbourhood plan. The Secretary of State's policy is clear, as set out in paragraph 84 with the NPPF, which states that planning policy should "enable the sustainable growth and expansion of all types of businesses in rural areas both through conversion of existing buildings and well-designed new buildings".

19. Can I ask the Parish Council to provide me with the justification why in the parish of Southbourne, the policy should be less supportive of new employment than as advocated by the Secretary of State and why does it consider that the current wording of Policy 5 requires amendment.

Both clauses of this policy are explicitly confined in their application to land within the settlement boundaries only. It is silent on how proposals outside the boundaries should be handled, choosing instead to defer to the policies of the CLPKP on this matter, being neither less nor more supportive. There is therefore no requirement for a modification of the policy, though the examiner may wish to recommend a modification to §5.47 to clarify the matter.

20. I have also got concerns regarding the employment density requirements set out in the policy. For example, if there was a planning application for the conversion of a building to employment use or indeed the construction of a new building, but the occupant of the building were not known at that stage as is often the case with speculative development, how was an applicant be able to demonstrate whether they would achieve the minimum employment density namely one FTE job per 40 m²? Alternatively, is the intention, that the occupation of an industrial unit should be vetted to ensure they are employing enough people at the premises, perhaps through a planning condition?

21. It appears to me that the policy does not recognise the realities of how companies operate, or change over time, nor does it recognise the limits of the planning system. I will be looking to introduce some more flexibility into the policy, but I am prepared to seek to understand how the Parish Council would see the policy operating in practice.

The rationale for the policy is set out in 5.49 but can be summarised as the understanding that this scarce land resource must be used as efficiently as possible to sustain local jobs. It is a signal that commercial developers and business occupants requiring greater flexibility should look elsewhere

unless and until the Local Plan-led system needs to deliver more employment land as part of a wider growth strategy. In the context of this village now, this is not unreasonable and should not be construed as 'anti-business'.

Instead the policy is seeking to be more supportive of employment growth using this scarce land resource, accepting that in the balancing of economic development and amenity harm, the balance should tip in favour of the development (by requiring 'significant' harm to be avoided).

It requires that the applicant should be able to show (in the Planning Statement) that the building(s) design and specification are practically capable of accommodating specific uses within Class E that would normally deliver the minimum job density. It is intended that this in itself would discourage proposals that could not meet this requirement, either immediately or at some point in the future, and so it is not thought necessary to go as far as requiring a form of post occupancy planning condition. In addition, we are mindful that the type of intensification of established employment land in Southbourne, which is the focus of this policy, is not that normally built speculatively, but is instead built for a specific occupant or occupant type.

Policy SB12

22. I would welcome the Parish Council's views on the Reg 16 representation on behalf of the Church Commissioners that the proposed allocation extends beyond the land owned by WSCC. Does WSCC support the allocation?

See Policies Map Inset 1 - The Respondent appears to have contradicted themselves in their submission. The land in question was acquired next to the Bourne College by WSCC using Compulsory Purchase powers in 1971. The area shown is identical to that shown in the made NP 2015 and has not been questioned before. The map now submitted by the Church Commissioners in Annex 1 shows the same site, but the map on page 14 of their submission appears to show a smaller area. The area identified in the Neighbourhood Plan is based on a map supplied by WSCC and matches the area shown on the Parish records of HM Land Registry. For the avoidance of any doubt, this policy is not intended to apply to land outside of WSCC control.

Policy SB13

23. The previous Policy 3 was specific to the Green Ring and I was really thrilled to see that the original neighbourhood plan's ambitions are being taken forward in the new developments. It is a great example of a locally distinctive policy delivering on the ground.

24. This policy is wider ranging and refers to wildlife corridors and waterbodies. As shown on the Policies Map, the extent of the corridors is somewhat "fuzzy" and that has implications as to when a decision maker would know whether the policy should be applied when considering a planning application. Can the Parish Council explain how the boundaries have been arrived at, as it appears to include residential areas, which I would be surprised act as wildlife corridors. For example, is there any evidence that Pagham Close and Sadlers Walk in Hermitage, are used or capable of being used as ecologically important routes, which are any different to other parts of the parish.

Questions 24, 25 and 26 merit a full response, and there is much to say, so to avoid repeating references to data sources and our line of thought we have prepared a separate document which addresses all three.

25. I am concerned that the policy is not properly backed up by convincing evidence that supports the significance of these extensive shaded areas, to demonstrate that they are, or are capable of, performing a role that requires policy recognition and protection, meeting the expectations as set out in paragraph 179 of the NPPF.

Questions 24, 25 and 26 merit a full response, and there is much to say, so to avoid repeating references to data sources and our line of thought we have prepared a separate document which addresses all three.

26. I appreciate that the new Local Plan is also promoting strategic wildlife corridors, although this has yet to be tested at examination. Is there evidence from the Local Plan evidence base which would justify the extent of the areas to be covered by this policy in the neighbourhood plan? Indeed, it would also be helpful if the proposed Local Plan strategic wildlife corridors could be superimposed on the neighbourhood plan proposed maps, so I can appreciate whether they cover the same area. I will leave it to the Parish / District to decide who is best placed to produce that plan.

Questions 24, 25 and 26 merit a full response, and there is much to say, so to avoid repeating references to data sources and our line of thought we have prepared a separate document which addresses all three.

Strategic Wildlife Corridors consultation - Chichester District Council

27. I note that Policy 52 of the adopted Local Plan refers to a network of green infrastructure i.e. public and private playing fields, recreational open spaces, parkland, allotments and water environment.

28. Finally, is it the intention of the policy that the requirement to provide woodland planting, on all sites with a gross site area of 2ha, would apply to all development proposals. For example, would a solar farm be expected to include a woodland? Can the Parish Council clarify whether gross site area is different from the site area, as questioned by the District Council.

This is an error – the policy is intended to apply to proposals for housing or commercial, business and services development and not other forms of development. The examiner may wish to recommend this is corrected. The use of the conventional term ‘gross’ is intended to distinguish the ‘gross site area’ from the smaller ‘net developable area’ for the purpose of clarity.

Policy SB14

29. Is there a need for a policy to be requiring a minimum 10% net gain in biodiversity if it is now to be delivered by the statutory requirements, from the Environment Act, which will be implemented from this November?

The primary reason for inclusion is that as of now the Environment Act has yet to be implemented. We have seen before that national policies can be delayed (e.g. the Future Homes Standard that was left out of the 2015 Neighbourhood Plan).

And we have a horrible history of developers clearing sites, then doing their baseline studies. Essentially, setting a negative starting point and achieving 10% gain from there will always end up with less than was present in the first place. We want to see the baseline BEFORE clearance and get at least another 10% increase from there.

We also need to take into account that biodiversity is not just what can be seen above ground. Ancient woodland, hedges etc have a huge invertebrate and seed base.

Policy SB15

30. In terms of the requirements set out in C), will not the statutory requirements for a net biodiversity plan/ net biodiversity gain achieve the same results?

It doesn't seem to have done so to date. We are really trying to avoid the ripping out of everything and starting from scratch. It's also a bit more restrictive as net gain could be delivered other than by trees/hedges. Enforcement vs removal of hedges in practice is almost impossible / ineffective.

Policy SB16

31. Can the Parish Council justify in what way is the horse grazing field, off Prinsted Lane, demonstrably special to the local community and in what way does it today, hold any particular significance?

The general setting is important, especially the view of Prinsted from the open fields to the west. The designation is consistent with the approach taken elsewhere in parish. See: <https://southbourne-pc.gov.uk/wp-content/uploads/2022/11/NP3-SB16-EV2-Proposed-Local-Green-Spaces.pdf>

Policy SB19

32. In a Written Ministerial Statement to the House of Commons, dated 25th March 2015, the Secretary of State stated that neighbourhood plans should not set any additional local technical standards or requirements relating to the construction, internal layout or performance of new dwellings. This policy remains in place and has not been withdrawn.

33. I offer the Parish Council this opportunity to justify to me, why the Secretary of State's expectations should not apply to Southbourne, rather than these matters being left to the new Local Plan, as the Secretary of State policy intends.

Firstly, although we recognise that the WMS 2015 has not yet been withdrawn, we consider that the implication that it is sufficient to outweigh other considerations in neighbourhood planning is incorrect. The most recent benchmark on this matter was established by the Inspector of the Bath & North East Somerset Local Plan in his report of December 2022. The relevant extract of that report is as follows:

"80. The Planning and Energy Act 2008 includes provisions for local planning authorities to exceed the minimum energy efficiency requirements of the Building Regulations where they are not inconsistent with relevant national policies for England. The Written Ministerial Statement of 25 March 2015 (WMS 2015) sets out that for the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill. Whilst there are such provisions in the Deregulation Act 2015, they have not been enacted, and the Government has confirmed that they will not so amend the Planning and Energy Act 2008, which means that local authorities retain powers to set local energy efficiency standards for new homes.

81. One of the tests of soundness is that local plans are consistent with national policy – enabling the delivery of sustainable development in accordance with the policies in the NPPF and other statements of national planning policy, where relevant.

82. The WMS 2015 sets out the government’s expectation that plan policies should not be used to set conditions on planning permissions with requirements above the equivalent of the energy requirement of Level 4 of the Code for Sustainable Homes. The Government amended Part L of the Building Regulations in 2021 (now in force) in respect of energy efficiency standards, to a level which exceeds that in Level 4 of the Code for Sustainable Homes (Part L 2021 is a 31% reduction over Part L 2013 and Code for Sustainable Homes Level 4 is a 19% reduction over Part L 2013).

83. The change in Part L of the Building Regulations is an interim measure in the implementation of the Future Homes Standard, with which the Government has stated from 2025, will deliver homes that are zero-carbon ready. The change in the Building Regulations is part of Government action to meet its legal commitment to bring all greenhouse gas emissions to net zero by 2050 (The Climate Change Act 2008 (2050 Target Amendment) Order 2019).

84. The WMS 2015 has clearly been overtaken by events and does not reflect Part L of the Building Regulations, the Future Homes Standard, or the legally binding commitment to bring all greenhouse gas emissions to net zero by 2050. [Our emphasis]

85. I therefore consider **that the relevance of the WMS 2015 to assessing the soundness of the Policy has been reduced significantly**, along with the relevant parts of the PPG on Climate Change, given national policy on climate change. The NPPF is clear that mitigating and adapting to climate change, including moving to a low carbon economy, is one of the key elements of sustainable development, and that the planning system should support the transition to a low carbon future in a changing climate. Whilst NPPF154b sets out that any local requirements for the sustainability of buildings should reflect the Government’s policy for national technical standards, for the reasons set out, that whilst I give the WMS 2015 some weight, any inconsistency with it, given that it has been overtaken by events, does not lead me to conclude that Policy SCR6 is unsound, nor inconsistent with relevant national policies.”

Earlier, in 2020, a neighbourhood plan examiner (Peter Biggars, of the Witchford NP in East Cambs), tackled the same WMS matter. He stated:

“... Although the 2015 written ministerial statement does advise that the standard will not be applied through neighbourhood plans the NPPF dating from February 2019, and therefore a much more recent national policy statement, makes no such restriction. At §127 (now §130 in NPPF 2021) it requires that planning policies “create places that are safe, inclusive and accessible and which promote health and well-being” and footnote 46 (now 49) to that paragraph states that “Planning policies for housing should make use of the Government’s optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties. Thus, I do not have an issue with the principle of what the WNP is seeking to do as it has regard to national advice and has been supported by the Local Planning Authority.”

This same position has now been supported by Neighbourhood Plan examiners in 2023 in Buckinghamshire (at the Ivers and Hazlemere, both since made by Buckinghamshire Council) and West Oxfordshire (at Cassington, also now made) in relation to identical policies to SB19. We also observe that when this matter was addressed in SPNP2, the land promoters of the allocated sites raised no objection to this policy as they were now ‘pricing in’ the need for better energy performance.

Secondly, however, as has been stressed in the supporting text and in the Basic Conditions Statement, the policy does not make achieving the standard a requirement. Rather, it is carefully worded to incentivise the use of the standard by increasing the burden on developers to demonstrate that the energy performance measures they propose are delivered on site and through the first year of occupation. There is considerable evidence that shows the absence of this feedback loop, managed through the discharge of a planning condition, has led to frequent under-performance in what is built.

In which case, the policy would be compliant with the WMS even if it carried its former weight. Although challenging for a local planning authority to enforce, some already do so for housing projects (Milton Keynes and Bath & North East Somerset) and many more for commercial projects. With two new neighbourhood plans to implement with this policy, and with many more in the examination pipeline in the county, Bucks Council is now working up a means by which the post occupancy testing regime should be applied. No planning authority that has declared a climate emergency, like CDC, can afford not to put in place such a system.

Policy SB20

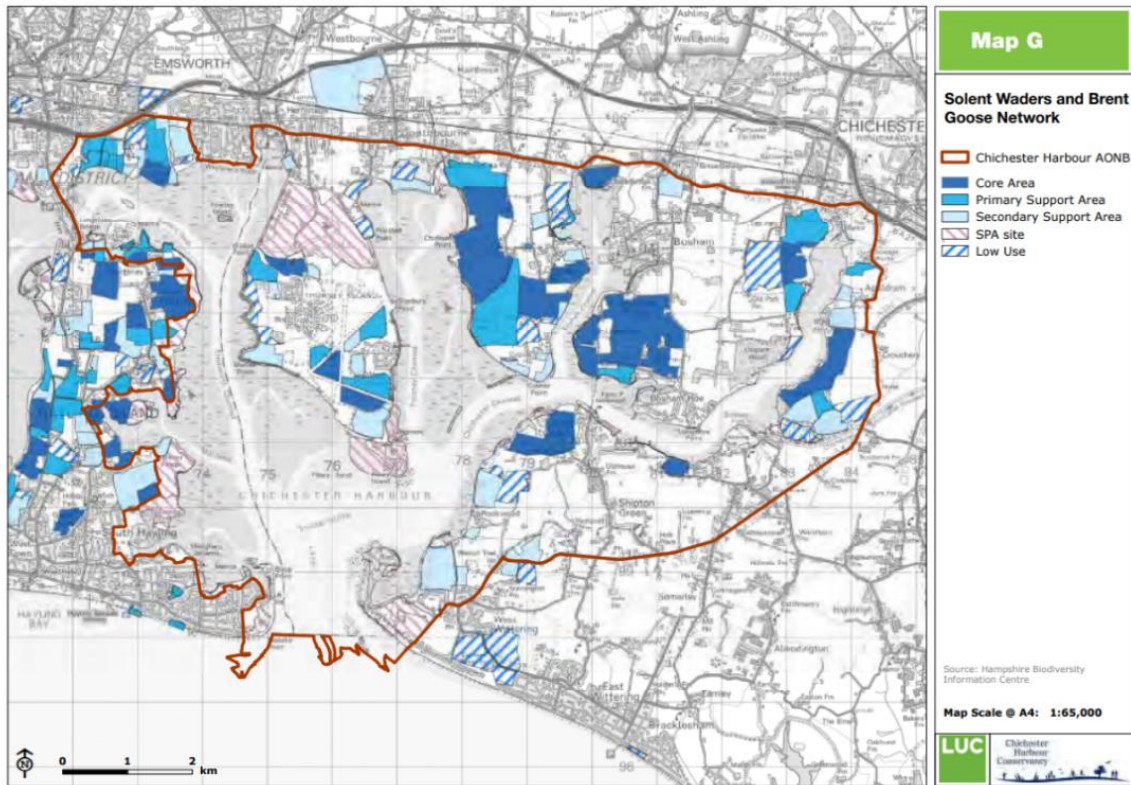
34. Again, I note that this policy is not in accordance with national policy which states that it is only a Local Plan that can set an enhanced water efficiency standard of 110 litres per person per day.

As noted above, we believe that this is now an incorrect interpretation of how national policy operates in respect of the ability of neighbourhood plans, as well as local plans, to contain policies per NPPF 2021 §130 and its footnote 49.

35. Can I be provided with the map showing the low-lying land for salt marsh restoration?

Para 5.101 in the Neighbourhood Plan refers to safeguarding “low lying land (as defined in the Chichester Harbour Conservancy State of the AONB Report 2018 and shown in Figure 3.17 ‘BAP Priority Habitat Coverage in the AONB’) for saltmarsh restoration purposes in line with the high priority given to this issue by Natural England in order to avoid ‘coastal squeeze’.” This report was originally linked to along with the rest of the evidence base here: <https://southbourne-pc.gov.uk/neighbourhood-plan/southbourne-parish-neighbourhood-plan-review-2019-2037-submission-plan/>. However, since publication the Chichester Harbour Conservancy website has been updated and the document can now be found on this page: www.conservancy.co.uk/the-conservancy/managing-land-water/management-plan/. The link to the specific document is as follows: www.conservancy.co.uk/wp-content/uploads/Chichester_State_of_the_AONB_Final_Report_2018.pdf and a copy it as well as the map, Figure 3.17 are attached to this document.

In addition to the report referred to in the Neighbourhood Plan, please also see Map G (Solent Waders and Brent Goose Network) from the Chichester Harbour Management Plan 2019 – 2024 Third Review:



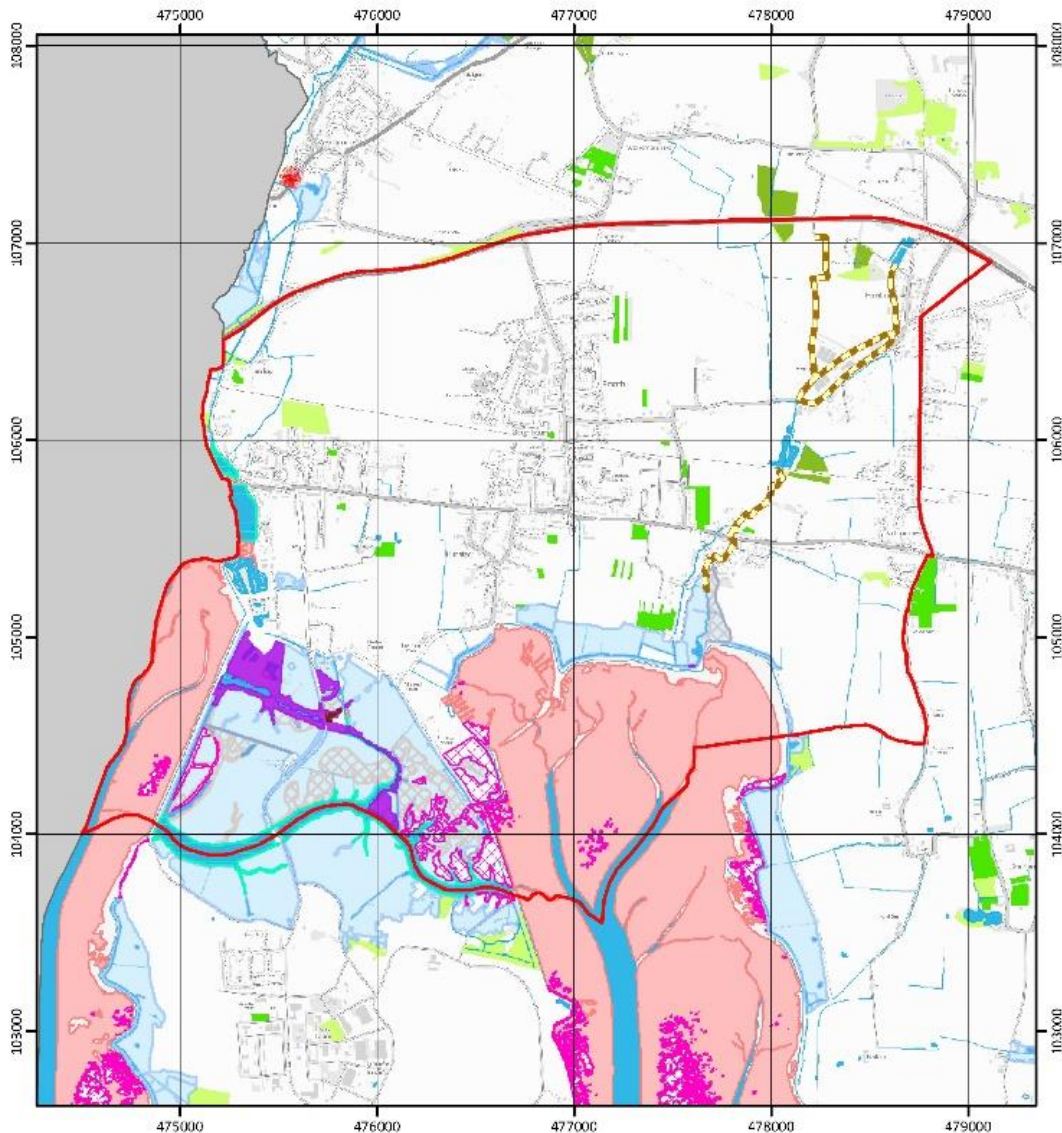
[www.conservancy.co.uk/wp-content/uploads/Management Plan 2019-24 Third Review-1.pdf](http://www.conservancy.co.uk/wp-content/uploads/Management_Plan_2019-24_Third_Review-1.pdf)

And Sussex Biodiversity Record Centre Map 4:

Map 4: Section 41 habitats and other

Land at Southbourne Parish

SxBRC/22/614 - 02/11/2022



Key to Map:

 Parish boundary	 Saline lagoon
 Land beyond Sussex	 Coastal & floodplain grazing marsh
 Ancient/veteran tree	 Open Water
 Chalk stream	 Traditional orchard
 Lowland fen	 Lowland meadow
 Reedbed	 Ancient woodland
 Coastal saltmarsh	 Deciduous woodland
 Intertidal mudflat	

Ancient woodland, and section 41 habitat data supplied by Natural England. Contains public sector information licenced under the Open Government Licence v3.0. Additional contributors of habitat data include Sussex Wildlife Trust, South Downs Conservation Board, Environment Agency, Sussex Wetlands Landscapes Project, WSCC, RSPB, High Weald ADNS Unit, Ancient Tree Hunt, and Tree Register of the British Isles.

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Further background info may be found:

<https://chapron.org.uk/focus-areas/coastal-resilience-saltmarsh-restoration-group/>
www.conservancy.co.uk/wp-content/uploads/Landscape_Character_Assessment_2019.pdf

Policy SB21

36. What is the Parish Council's definition of what is "major development" is it intended to be 10 units or more as used by the Development Management Procedures Order?

Yes, 10+ units.

Concluding Remarks

37. I am sending this note direct to Southbourne Parish Council, as well as Chichester District Council and I would request that the two parties' response to my questions should be sent to me by 5 pm on 18th August 2023 and also copied to the other party.

38. I would also request that copies of this note and the respective responses are placed on the Neighbourhood Plan's and also Chichester District Council's website.

John Slater BA (Hons), DMS, MRTPI, FRGS.

John Slater Planning Ltd

Independent Examiner to the Southbourne Modified Neighbourhood Plan

28th July 2023