

# Southbourne Modified Neighbourhood Plan 2014-2029

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## Initial Comments of the Independent Examiner

**Prepared by**

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**John Slater Planning Ltd**

**28<sup>th</sup> 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 25<sup>th</sup> 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carried out into what is to be a modified version of the Southbourne Parish Neighbourhood Plan 2014-2029, which was originally made in December 2015.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.

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.

### **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 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?

### **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?

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

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?

### **Policy SB9**

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

### **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.
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 m<sup>2</sup>? 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.

### **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?

### **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 Paghams 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.
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.

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.
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.

#### **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?

#### **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?

#### **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?

#### **Policy SB19**

32. In a Written Ministerial Statement to the House of Commons, dated 25<sup>th</sup> 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.

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

### 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?

### 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 **18<sup>th</sup> 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.

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Independent Examiner to the Southbourne Modified Neighbourhood Plan

28<sup>th</sup> July 2023