

Chippenham Without Neighbourhood Plan

Submission Version 2022 – 2036

Report of Examination

July 2023

**Undertaken for Wiltshire Council with the support of
Chippenham Without Parish Council on the submission version
of the plan.**



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Abbreviations used in the text of this report:

The Chippenham Without Neighbourhood Plan is referred to as ‘the Plan’ or ‘CWoNP’.

Chippenham Without Parish Council is abbreviated to ‘CWoPC’.

Wiltshire Council is also referred to as the Local Planning authority (LPA).

The National Planning Policy Framework is abbreviated to ‘NPPF’.

The National Planning Practice Guidance is abbreviated to ‘NPPG’.

The Wiltshire Core Strategy 2015 is abbreviated to ‘WCS’.

Neighbourhood Planning Regulations 14 and 16 are abbreviated to ‘Reg14’ and ‘Reg16’ respectively.

Summary

- I have undertaken the examination of the CWoNP during June and July 2023 and detail the results of that examination in this report.
- The Qualifying Body has undertaken proportionate consultation on this Plan, and it complies with legislative requirements. The Plan is well laid-out and illustrated and will serve it's small community. The Wiltshire Core Strategy provides a comprehensive strategic policy framework.
- I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have informed some of the recommended modifications.
- Subject to the modifications recommended, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

Acknowledgements: Thanks to Local Authority and qualifying body staff for their assistance with this examination. My compliments to the local community volunteers and Chippenham Without Parish Council, who have worked diligently to produce their nicely presented neighbourhood plan.

1. Introduction and Background

1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowered local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF para 29) states that:

“neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can ... help to deliver sustainable development”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in this area that is the Chippenham Without Parish Council (CWoPC). Drawing up the Neighbourhood Plan was undertaken by a steering group of local residents, working to the parish council and advised by consultants and Council Officers.

1.2 Independent Examination

1.2.1 Once the parish council (CWoPC) had prepared their neighbourhood plan and consulted on it, they submitted it to Wiltshire Council. After publicising the plan with a further opportunity for comment, Wiltshire Council were required to appoint an Independent Examiner, with the agreement of CWoPC to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this Plan. I am a chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS). I am independent of any local connections to the parish of Chippenham Without and Wiltshire Council, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the Plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The Plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The CWoNP complies with the requirements of Paragraph 8(1). The Neighbourhood Area was designated on the 30th March 2015 by Wiltshire Council. The plan does not relate to land outside the designated Neighbourhood Area. It specifies the period during which it has effect as 2022 – 2036 and has been submitted and prepared by a qualifying body and people working to that qualifying body. It does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure.

1.2.5 I made an unaccompanied site visit to the parish to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations, as I did not consider a hearing necessary.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

1.3 Planning Policy Context

1.3.1 The Development Plan documents relevant for the parish, not including documents relating to excluded mineral and waste development, is the Wiltshire Core Strategy (WCS) 2015 and saved policies from the North Wiltshire Local Plan. The Wiltshire Housing Site Allocations Plan 2020 and The Chippenham Site Allocation Plan 2017, also development plan documents, do not have policies and allocations relevant to this parish and neighbourhood area. A Local Plan Review is in progress, but at a relatively early stage. Strategic Policies are all policies in the WCS 2015 and Policy H4 in the North Wiltshire Local Plan.

1.3.2 The National Planning Policy Framework 2021 (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance (NPPG) website offers guidance on how this policy should be implemented.

1.3.3 During my examination of the CWoNP I have considered the following documents:

- National Planning Policy Framework (NPPF) 2021
- National Planning Practice Guidance 2014 and as updated
- Ministerial Statement June 2015
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Submission version of the Chippenham Without Neighbourhood Plan (CWoNP)
- The Basic Conditions Statement submitted with the CWoNP
- The Consultation Statement submitted with the CWoNP
- The Strategic Environmental Assessment And Habitats Regulations Screening Decisions for the CWoNP
- Neighbourhood Area Designation (map)
- Wiltshire Core Strategy: Adopted January 2015
- North Wiltshire Local Plan 2011 Saved Policies
- Representations received during the publicity period (reg16 consultation)

2. Plan Preparation and Consultation

2.1 Pre-submission Process and Consultation

2.1.1 Chippenham Without is a rural parish on the western boundary of Chippenham in Wiltshire. It has three small settlements within it, but is mainly a gently rolling rural landscape with a conservation area that includes considerable open land as well as the settlement of Allington.

2.1.3 A Steering Group of residents and parish councillors was set up at an initial meeting after the neighbourhood area was designated in 2015. The steering group report back to the Parish Council and the Parish Council minutes record activity with the Neighbourhood Plan during the course of its development. These minutes are available on the CWoPC website.

2.1.4 The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. The first consultation in 2016 with landowners and residents looked to determine the key themes and issues that the Plan needed to address. Further consultation, working with a planning consultant and the Gloucestershire Rural Community Council, undertook a Housing Needs Survey and a draft Plan. This draft was consulted on in 2020, and revised in the light of comments before offering a draft Reg14 Plan early in 2022.

2.1.5 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission Draft CWoNP ran from the 4th January to the 28th February 2022. Notice of the consultation was mailed to all residents, together with a response form and questionnaire, and a response rate from residents of 36.4% was obtained from 55 respondents, most of whom were very supportive of the plan. All statutory bodies, businesses and organisations considered to have an interest in the Plan were contacted, as detailed in the Consultation Statement. Relevant documents were available on the Parish Council website.

2.1.6 The LPA also gave comprehensive comments during the Reg14 consultation period, and some minor amendments have been made to the Plan as a result of these constructive suggestions. The LPA commented that more evidence could have been provided to support policies and augment the local relevance of the plan. However the parish is small and I accept that the steering group were not able to undertake further work of this nature. I am satisfied that due process has been followed during the consultation undertaken on the Plan, all be it over the course of some time.

2.1.7 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, the Screening Opinion and a plan showing the neighbourhood area was submitted to Wiltshire Council on the 30th January 2023.

2.2 Regulation 16 Consultation Responses

2.2.1 Wiltshire Council undertook the Reg 16 consultation and publicity on the CWoNP for six weeks, from the 13th March 2023 to the 2nd May 2023. Thirteen Representations were received during this consultation, including four from residents offering their support for the Plan. Four statutory bodies had no specific comments to make on this Plan but offered general guidance. Comments from the other statutory consultees, where issues they raise are pertinent to my consideration of whether the Plan meets the basic conditions, are considered in sections 3 and 4 of this report below.

2.2.2 I am specifically limited by legislation to correcting with recommended modifications the Plan's compliance with the Basic Conditions and other legal requirements. Comments in the Reg16 responses suggesting minor corrections needed to the text are very useful, but cannot be the subject of any modifications I recommend unless they are relevant for the purposes of my examination of compliance with legislation and the Basic Conditions. The LPA will be aware however that it is authorised to correct minor errors and matters of clarity that may have been missed so far [Town and Country Planning Act 1990 Schedule 4B section 12(6)]. It is generally agreed, for example, that for clarity and consistency, references to the newly named 'Cotswold National Landscape' should also use the Area of Outstanding Natural Beauty abbreviation (AONB) for clarity. References to the AONB would then read 'Cotswold National Landscape (AONB)'.

3. Compliance with the Basic Conditions Part 1

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the CWoNP has complied with these requirements. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations and comply with human rights law; and
- Not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (*prescribed basic condition since December 2018*).

3.2 The Basic Conditions Statement discusses how sustainability is at the core of the Plan. The social, economic and environmental goals of sustainable development are promoted with the objectives of supporting small local businesses and preserving the natural and historic environment as a green lung for Chippenham. The objective of opening up rights of way to promote active travel access by the wider Chippenham community is a positive aspect of the plan, and a useful social and environmental sustainable objective. I accept that the Plan does contribute to sustainable development in line with the Basic Conditions.

3.3 A screening opinion has been issued by Wiltshire Council which considers whether Strategic Environmental Assessment (SEA) and an appropriate assessment under Habitat Regulations Assessment (HRA) are required for the CWoNP. These environmental requirements are incorporated into UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, and implement the main EU Directive that neighbourhood plans still need to comply with. The Screening opinion states that SEA is not required as the plan in its current form is not likely to have significant environmental effects and an appropriate assessment under the Habitats Regulation is not required as the CWoNP will not result in a likely significant effect on any European sites or their qualifying features either alone or in-combination with other plans and projects.

3.4 A report submitted with the Plan details an assessment of the CWoNP's conformity with the European Convention on Human Rights and the Equalities Act 2010. This concludes that the Plan is consistent with the aims of these requirements, and that no discrimination or disadvantage is likely to occur as a result of the plan, which the community have helped create. I accept that the Plan complies with human rights and equalities legislation and EU Obligations.

4. Compliance with the Basic Conditions Part 2: National Policy and the Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the CWoNP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF 2021 and the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan. The phrase ‘general conformity’ allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended.

Modifications are boxed in this report, with text to *remain in italics*, new text **highlighted in Bold** and text to be deleted ~~shown but struck through~~. Instructions for alterations are underlined.

4.3 The LPA have noted a range of textual and other changes that they feel would improve the Plan, but my remit in this examination is to consider whether, with modifications if necessary, the Plan complies with the Basic Conditions. I cannot make recommendations on suggested alterations that are not Basic Condition issues. Minor amendments and corrections can be made to the Plan with the agreement of both parties however.

4.3.1 The NPPF requires planning policy documents, particularly policies to have sufficient clarity that their intent can be understood clearly by the public (NPPF para16d). I find the referencing of WCS policies alongside the objectives and the policies of the CWoNP confusing, to the extent that the clarity required by NPPF is not met. The LPA have suggested that policies should have titles, but I am content that the current provision of a policy for each objective makes the policy intent clear. In order that the CWoNP complies with the Basic Conditions and gives national policy in the NPPF due regard, I recommend the Plan is amended in line with Modification 1.

Modification 1: The Objectives (sections 28 – 32) and all Planning Policies in the CWoNP to remove references to policies in the WCS. Section 7 to make clear that WCS policies are referenced in Appendix B. The second sentence of Objective KO-H-2 to be deleted.

4.3.2 Section 7 of the CWoNP refers to the Plan as including ‘Activities and Projects’ that help meet the Plan objectives. A neighbourhood plan can only deal with land-use issues (NPPG Ref ID: 41-004-20190509): other community aspirations and projects need to be separated from the Plan’s core content. In order that the Plan complies with the Basic Conditions and pays due regard to Government guidance on neighbourhood planning, I recommend it is amended as set out in Modification 2.

Modification 2: Sections 38 and 39 of the Plan to be removed from the core document and instead included as an appendix to the document.

Section 7 to be amended to reflect this change

4.3.3 Sections 41 and 42 of the document detail a review process for the Plan. This is commendable, particularly as the end date of the Plan is set beyond the reach of the current Development Plan and thus the CWoNP may well be superseded by other policy documents before its end date of 2036. However there are inaccuracies of process in section 41 that need correcting in order that the NPPF requirement for clarity and right understanding is met. Once made, the Plan can only be amended as set out in the neighbourhood planning regulations, a process that requires consultation with stakeholders and the LPA – to a degree determined by the significance of any changes. Given this, and the possibility that the Plan may well be out of date before 2035, the CWoNP may like to review the intent to only undertake a formal review with consultation in 2035 (section 42). However I make no formal recommendation on this, as I do not consider it a Basic Conditions issue.

4.3.4 Bullet points b) and c) both make erroneous reference to developments being “approved by the Neighbourhood Plan”. This is not correct, it is the LPA that approves planning applications – taking into account planning policy including the CWoNP, if it is made, and other material considerations. In order that the Plan complies with the Basic Conditions and pays due regard to Government Policy requiring Plans to be clearly understood, I recommend that the Plan is amended as shown in Modification 3 below.

Modification 3: Section 41, bullet points a) to d) to be revised as follows:

“a) Consideration of changes to the Development Plan that may require a formal review of the CWoNP.

b) Details of development in the parish approved by the Local Planning Authority in the previous year.

c) Details of any known forthcoming developments proposed in the parish for the coming year.

d) Interim Reviews of the whole process and Plan to take place every 5 years from the date the Plan is made.”

4.3.5 There has been criticism of the Plan and its policies adding little to existing development plan and national policy. Some of the policies are rather general and a bit repetitive, and the justification for them is brief. I accept that some policies could have been amalgamated, but the pattern of a policy for each objective (with some minor deviation and amalgamation) does give the Plan a structure that is very clear, if less successful in policy development. However neighbourhood planning was set up to allow control of the system at a local level, and the Plan reflects the wishes of this small community. It usefully ties the Allington Conservation Area Statement into design policy and discusses local design features briefly. Further evidence of the local landscape and design context would have strengthened the Plan, but the lack of it does not make the Plan contrary to the Basic Conditions.

4.4 Policy CWoNP – HE1: Complies with the Basic Conditions.

4.5 Policy CWoNP – HE2: Complies with the Basic Conditions.

4.6 **Policy CWoNP – HE3:** Heritage Assets vary in the degree of protection they are afforded, and the NPPF is clear that there must be a differentiation of protection maintained in planning policy (NPPF paras 189 and 199). The policy as currently written does not do this, it has a broad brush approach to all historic assets. Additionally the reference to structural adverse impact strays away from land-use issues. In order that Policy HE3 complies with the Basic Conditions, and references a proportionate approach to the protection of historic assets, is positive and deals with land-use issues only, I recommend it is altered as shown in Modification 4.

Modification 4: Policy HE3 to be amended as follows:

All new developments **should conserve and preserve historic assets in the Parish commensurate with their historic status.** ~~within the Neighbourhood Plan Area must not adversely affect in any way either structurally or visually the Parish's heritage assets.~~

4.7 **Policy CWoNP – NE1 and Policy CWoNP – NE2:** Some of the requirements of these policies can only apply to development proposals that are of a scale to be able to support the policy requirements. The NPPG indicates that planning policy cannot impact on deliverability (NPPG Ref ID: 41-005-20190509). In order that Policy NE1 and Policy NE2 comply with the Basic Conditions and have due regard to Government guidelines, I recommend that they are amended as shown in Modification 5.

Modification 5: Policies NE1 and NE2 to be amended as follows:

The first line of Policy NE1 to read **“Where appropriate development proposals must: ...”**

The second sentence of Policy NE2 before the bullet points to read **“Where appropriate, proposals should: ...”**

4.8 **Policy CWoNP – BE1** Complies with the Basic Conditions.

4.9 **Policy CWoNP – BE2:** The policy currently refers to ‘requirements’, but the Annex referred to in the policy is not listing specific construction details, it is general guidance on sustainable construction. It is contrary to government policy in the Ministerial Statement of June 2015 for planning policy in a neighbourhood plan to specify construction requirements beyond those of the current building regulations, so the policy can only support, not require. The LPA have suggested an alternative policy that offers clearer support for sustainable construction that has gone beyond the minimum requirements of the Building Regulations. In order that Policy BE2 complies with the Basic Conditions and pays due regard to government policy on content for neighbourhood plans and clarity, I recommend it, and the Built Environment policy justification, is amended as shown in Modification 6.

Modification 6: Policy BE2 to read as follows:

“Development proposals that include sustainable construction measures over and above building regulations standards and that accord with the principles of Wiltshire Core Strategy policy CP41, or any future replacement policy, shall be supported and encouraged.”

The reference to Annex M to be moved within the text justifying all BE policies in section 35, as a penultimate sentence.

4.10 **Policy CWoNP – BE3:** Complies with the Basic Conditions.

4.11 **Policy CWoNP – E1** This policy has a second sentence that is prematurely ruling out any future need for alteration and increased provision within the road network of the parish. The form and requirements of the road network in the future are primarily matters for the highways authority and strategic planning. The detail of highway alteration is not a land-use issue, and alterations and additions to the strategic road network that have land-use implications, as strategic matters, are not appropriate concerns for a neighbourhood plan (NPPF para29). This part of Policy E1 would, if allowed to remain, seek to regulate and pre-judge strategic policy matters. In order that policy E1 pays due regard to government policy and guidance about the content and scope of neighbourhood plans I recommend it is amended as shown in Modification 7.

Modification 7: The second sentence of Policy E1 to be deleted.

4.12 **Policy CWoNP – E2** Complies with the Basic Conditions.

4.13 **Policy CWoNP – E3** Complies with the Basic Conditions.

4.14 **Policy CWoNP – E4** The policy is dealing with community facilities, both existing and desired. Reference to 'para 39' (or section 39 as I have used in this report) is not appropriate as it is now not part of the formal Plan (see Modification 2 above). There is a useful list of existing community facilities in section 39 however, and including them in Policy E4 would give increased local relevance and clarity to the policy. In order that Policy E4 has the clarity required of planning policy (NPPF para16d), and thus complies with the Basic Conditions, I recommend it is amended as shown in Modification 8.

Modification 8: Policy E4 to be amended as follows:

Proposals for community facilities that are of an appropriate scale will be supported. ~~examples of existing community facilities are given in para 39 of the Neighbourhood Plan.~~

Existing community facilities are as follows:

Allington Farm Shop and Café

Texaco Garage and Shop

Chippenham Rugby Club

Allington Cricket Club

Golf Driving Range

*Any **development** proposal that would result in the loss of community facilities must clearly demonstrate that ~~the a community~~ use is not viable.*

***Development** Proposals which **would result in** ~~are for~~ the loss of a community facility but are able to demonstrate that the facility will be replaced in an alternative location within the Neighbourhood Plan Area will be supported.*

4.15 **Policy CWoNP – H1** Complies with the Basic Conditions.

4.16 **Policy CWoNP – H2** Complies with the Basic Conditions.

4.17 **Policy CWoNP – H3** The policy currently lacks clarity, and could be taken to imply that all new dwellings will be supported – particularly so if they include adaptations for lifelong needs. This meaning would be contrary to saved policy H4 in the North Wiltshire Local Plan 2011 and thus contrary to the Basic Condition requirement that policy is in general conformity with strategic policies of the development plan. It is also not clear that it is lifelong needs requirements that are supported. In order that the Plan complies with the Basic Conditions, and is in general conformity with the development plan, I recommend that Policy H3 is amended as shown in Modification 9.

Modification 9: Policy H3 to be revised as follows:

*“Proposals for new dwellings **are encouraged to demonstrate how they may be adapted to meet lifelong needs over time.**”*

5. The Referendum Boundary

5.1 The Chippenham Without Neighbourhood Development Plan 2022-2036 (CWoNP) has no policy or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the CWoNP shall be the boundary of the designated Neighbourhood Area for the Plan.