

Wiltshire Council

**Chirton and Conock  
Neighbourhood Plan 2018-2026**

**Independent Examiner's Report**

By Ann Skippers MRTPI FRSA AoU

18 April 2019

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## Summary

I have been appointed as the independent examiner of the Chirton and Conock Neighbourhood Development Plan.

The Parish is about 5 miles from Devizes and has a population of just over 400. Chirton village has a school and Church and much of it is a Conservation Area. The hamlet of Conock lies to the west and boasts a registered park and garden. Chirton is within the North Wessex Downs Area of Outstanding Natural Beauty (AONB) and about a mile north of Salisbury Plain, an Area of Special Conservation and Special Protection Area and a Site of Special Scientific Interest and used for military purposes.

The Plan is presented well and is thoughtful in its approach. Although Chirton is a designated 'Small Village' in the Core Strategy, the community is keen to stop any stagnation of the village and its environs. The Plan does not seek to repeat higher tier policies, but to add a local layer to them. A substantial evidence base has been compiled with care to reconcile evidence with issues of importance to the community to develop the policies and community actions. A keen awareness of the need to review the Plan comes across strongly even though this is not a requirement for neighbourhood plans.

There are no site allocations in the Plan, but the four policies cover housing, design, infrastructure and local green space.

It has been necessary to recommend some modifications. In the main these are intended to ensure the Plan provides a practical framework for decision-making as required by national policy and guidance and has regard to national policy. These do not significantly or substantially alter the intention or overall nature of the Plan.

Subject to those modifications, I have concluded that the Plan does meet the basic conditions and all the other requirements I am obliged to examine. I am therefore pleased to recommend to Wiltshire Council that the Chirton and Conock Neighbourhood Development Plan can go forward to a referendum.

In considering whether the referendum area should be extended beyond the Neighbourhood Plan area I see no reason to alter or extend this area for the purpose of holding a referendum.

Ann Skippers MRTPI  
Ann Skippers Planning  
18 April 2019



## 1.0 Introduction

This is the report of the independent examiner into the Chirton and Conock Neighbourhood Development Plan (the Plan).

The Localism Act 2011 provides a welcome opportunity for communities to shape the future of the places where they live and work and to deliver the sustainable development they need. One way of achieving this is through the production of a neighbourhood plan.

I have been appointed by Wiltshire Council (WC) with the agreement of the Parish Council, to undertake this independent examination. I have been appointed through the Neighbourhood Planning Independent Examiner Referral Service (NPIERS).

I am independent of the qualifying body and the local authority. I have no interest in any land that may be affected by the Plan. I am a chartered town planner with over twenty-five years experience in planning and have worked in the public, private and academic sectors and am an experienced examiner of neighbourhood plans. I therefore have the appropriate qualifications and experience to carry out this independent examination.

## 2.0 The role of the independent examiner

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

The basic conditions<sup>1</sup> are:

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the neighbourhood 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
- The making of the neighbourhood plan does not breach, and is otherwise compatible with, European Union (EU) obligations
- Prescribed conditions are met in relation to the neighbourhood plan and prescribed matters have been complied with in connection with the proposal for the neighbourhood plan.

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<sup>1</sup> Set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended)

Regulations 32 and 33 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out two additional basic conditions to those set out in primary legislation and referred to in the paragraph above. Only one is applicable to neighbourhood plans and was brought into effect on 28 December 2018.<sup>2</sup> It states that:

- The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

The examiner is also required to check<sup>3</sup> whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to i) specify the period to which it has effect; ii) not include provision about excluded development; and iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood area.

I must also consider whether the draft neighbourhood plan is compatible with Convention rights.<sup>4</sup>

The examiner must then make one of the following recommendations:

- The neighbourhood plan can proceed to a referendum on the basis it meets all the necessary legal requirements
- The neighbourhood plan can proceed to a referendum subject to modifications or
- The neighbourhood plan should not proceed to a referendum on the basis it does not meet the necessary legal requirements.

If the plan can proceed to a referendum with or without modifications, the examiner must also consider whether the referendum area should be extended beyond the neighbourhood plan area to which it relates.

If the plan goes forward to referendum and more than 50% of those voting vote in favour of the plan then it is made by the relevant local authority, in this case Wiltshire Council. The plan then becomes part of the 'development plan' for the area and a statutory consideration in guiding future development and in the determination of planning applications within the plan area.

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<sup>2</sup> Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018

<sup>3</sup> Set out in sections 38A and 38B of the Planning and Compulsory Purchase Act 2004 as amended by the Localism Act

<sup>4</sup> The combined effect of the Town and Country Planning Act Schedule 4B para 8(6) and para 10 (3)(b) and the Human Rights Act 1998

### 3.0 Neighbourhood plan preparation

A Consultation Statement has been submitted. It meets the requirements of Regulation 15(2) of the Neighbourhood Planning (General) Regulations 2012.

Work began on the Plan in 2016. An initial questionnaire was sent to all households in the Plan area at the start of 2017 with a response rate of just under 17%. Two events were held in May 2017; a cheese and wine evening and a tea and cakes event. Both well attended, these gave the opportunity for feedback and a further questionnaire.

The Housing Needs Survey took place in May 2017 with a good response rate of 39%.

Pre-submission (Regulation 14) consultation took place between 29 January – 18 March 2018. Copies of the draft Plan were available online and in three locations including outside the Parish. The consultation was advertised in the Parish newsletter, on noticeboards and Facebook. Flyers and response forms were delivered to every household. Statutory consultees are detailed in the Consultation Statement.<sup>5</sup> An event was held during the consultation period.

A range of consultation activities has been used throughout the process. These have included a dedicated Plan page on the Parish Council website, updates in the Parish newsletter, use of Parish noticeboards and open / drop-in sessions.

I consider that the consultation and engagement carried out is satisfactory.

Submission (Regulation 16) consultation was carried out between 24 August – 19 October 2018.

The Regulation 16 stage resulted in eight representations. I have considered all of the representations and taken them into account in preparing my report.

### 4.0 The examination process

I have set out my remit earlier in this report. It is useful to bear in mind that the examiner's role is limited to testing whether or not the submitted neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).<sup>6</sup> PPG confirms that the examiner is not testing the soundness of a neighbourhood plan or examining other material considerations.<sup>7</sup> Where I find that policies do meet the basic conditions, it is not necessary for me to consider if further amendments or additions are required.

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<sup>5</sup> Consultation Statement page 28 onwards

<sup>6</sup> PPG para 055 ref id 41-055-20180222

<sup>7</sup> *Ibid*

Some representations make useful suggestions that I feel sure the Parish Council will wish to consider in any future revisions to the Plan.

PPG<sup>8</sup> explains that it is expected that the examination will not include a public hearing. Rather the examiner should reach a view by considering written representations. Where an examiner considers it necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case, then a hearing must be held.<sup>9</sup>

I sought clarification on a number of matters from the Parish Council and WC in writing and my list of questions is attached to this report as Appendix 2.

I am very grateful to both Councils who have provided me with comprehensive answers to my questions. The responses received (all publicly available) have enabled me to examine the Plan without the need for a hearing.

Last year NPIERS published guidance to service users and examiners. Amongst other matters, the guidance indicates that the qualifying body will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for the Parish Council to make any comments; it is only if they wish to do so. If a qualifying body wishes to make comments, the guidance indicates that any such comments should be made within two weeks after close of the Regulation 16 stage. WC invited the Parish Council to make comments, but only on the comments made by WC. The examination was delayed a little whilst this was remedied. The Parish Council did make comments on the other representations as well as WC's representation.

I made an unaccompanied site visit to familiarise myself with the Plan area on 6 January 2019.

Where modifications are recommended they appear in **bold text**. Where I have suggested specific changes to the wording of the policies or new wording these appear in ***bold italics***.

As a result of some modifications consequential amendments may be required. These can include changing section headings, amending the contents page, renumbering paragraphs or pages, ensuring that supporting appendices and other documents align with the final version of the Plan and so on.

I regard these as primarily matters of final presentation and do not specifically refer to such modifications, but have an expectation that a common sense approach will be taken and any such necessary editing carried out and the Plan's presentation made consistent.

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<sup>8</sup> PPG para 056 ref id 41-056-20180222

<sup>9</sup> *ibid*

## 5.0 Compliance with matters other than the basic conditions

I now check the various matters set out in section 2.0 of this report.

### **Qualifying body**

Chirton and Conock Parish Council is the qualifying body able to lead preparation of a neighbourhood plan. This requirement is met.

### **Plan area**

The Plan area is coterminous with the administrative boundary for the Parish. WC approved the designation of the area on 5 December 2016. The Plan relates to this area and does not relate to more than one neighbourhood area and therefore complies with these requirements. The Plan area is shown clearly in Appendix 2 of the Plan.

### **Plan period**

The Plan period is 2018 – 2026. This is clearly stated in the Plan itself and confirmed in the Basic Conditions Statement. This requirement is therefore met.

### **Excluded development**

The Plan does not include policies that relate to any of the categories of excluded development and therefore meets this requirement. This is also helpfully confirmed in the Basic Conditions Statement.

### **Development and use of land**

Policies in neighbourhood plans must relate to the development and use of land. Sometimes neighbourhood plans contain aspirational policies or projects that signal the community's priorities for the future of their local area, but are not related to the development and use of land. If I consider a policy or proposal to fall within this category, I will recommend it be clearly differentiated. This is because wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable.<sup>10</sup> In this instance, community aspirations have been included in a separate section of the Plan which I consider to be an appropriate approach for this particular Plan.

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<sup>10</sup> PPG para 004 ref id 41-004-20170728



## 6.0 The basic conditions

### Regard to national policy and advice

The Government published a National Planning Policy Framework (NPPF) in 2012. On 24 July 2018, a revised NPPF was published. On 19 February 2019, the revised NPPF was updated and replaces the previous NPPF published in March 2012 and revised last July.

Paragraph 214 in Annex 1 of that document explains that:

“The policies in the previous Framework published in March 2012 will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.”

Footnote 69 explains that for neighbourhood plans “submission” means where a qualifying body submits a plan proposal to the local planning authority in accordance with regulation 15 of the Neighbourhood Planning (General) Regulations 2012.

As the Plan was submitted before 24 January 2019, it is clear that it is the previous NPPF published in 2012 which is relevant to this particular examination. Any references to the NPPF in this report refer to the NPPF published in 2012 unless otherwise stated.

The NPPF is the main document that sets out national planning policy. In particular it explains that the application of the presumption in favour of sustainable development will mean that neighbourhood plans should support the strategic development needs set out in Local Plans, plan positively to support local development, shaping and directing development that is outside the strategic elements of the Local Plan and identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with the neighbourhood plan to proceed.<sup>11</sup>

The NPPF also makes it clear that neighbourhood plans should be aligned with the strategic needs and priorities of the wider local area. In other words neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. They cannot promote less development than that set out in the Local Plan or undermine its strategic policies.<sup>12</sup>

The NPPF indicates that plans should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.<sup>13</sup>

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<sup>11</sup> NPPF paras 14, 16

<sup>12</sup> *Ibid* para 184

<sup>13</sup> *Ibid* para 17

On 6 March 2014, the Government published a suite of planning guidance referred to as Planning Practice Guidance (PPG). This is an online resource available at [planningguidance.communities.gov.uk](http://planningguidance.communities.gov.uk) which is regularly updated. The planning guidance contains a wealth of information relating to neighbourhood planning. I have also had regard to PPG in preparing this report.

PPG indicates that a policy should be clear and unambiguous<sup>14</sup> to enable a decision maker to apply it consistently and with confidence when determining planning applications. The guidance advises that policies should be concise, precise and supported by appropriate evidence, reflecting and responding to both the context and the characteristics of the area.<sup>15</sup>

PPG states there is no 'tick box' list of evidence required, but proportionate, robust evidence should support the choices made and the approach taken.<sup>16</sup> It continues that the evidence should be drawn upon to explain succinctly the intention and rationale of the policies.<sup>17</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement sets out how the Plan has responded to national policy and guidance. Each policy and community action in the Plan is cross-referenced to the NPPF including its core planning principles and PPG where relevant alongside a commentary that explains how the Plan meets this basic condition.

### **Contribute to the achievement of sustainable development**

A qualifying body must demonstrate how the making of a neighbourhood plan would contribute to the achievement of sustainable development. The NPPF as a whole<sup>18</sup> constitutes the Government's view of what sustainable development means in practice for planning. The Framework explains that there are three dimensions to sustainable development: economic, social and environmental.<sup>19</sup>

Whilst this has formed part of my own assessment, the Basic Conditions Statement discusses how the Plan meets this basic condition.

### **General conformity with the strategic policies in the development plan**

The development plan relevant to this examination includes the Wiltshire Core Strategy Development Plan Document (CS) and the saved and retained policies of the Kennet District Local Plan 2011 (KLP) identified in Appendix D of the CS. The CS was adopted on 20 January 2015 and the KLP was adopted on 30 April 2004.

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<sup>14</sup> PPG para 041 ref id 41-041-20140306

<sup>15</sup> *Ibid*

<sup>16</sup> *Ibid* para 040 ref id 41-040-20160211

<sup>17</sup> *Ibid*

<sup>18</sup> NPPF para 6 which indicates paras 18 – 219 of the Framework constitute the Government's view of what sustainable development means in practice

<sup>19</sup> *Ibid* para 7

The CS provides a framework for Wiltshire up to 2026. Its spatial vision is based around stronger, more resilient communities based on a sustainable pattern of development and it identifies six strategic objectives to help to achieve this. It is an economic-led strategy. It identifies 18 Community Areas and the Parish falls within the Pewsey Community Area.

Core Policy 1 of the CS sets out a settlement strategy identifying five types of settlements based on their role and function and how they relate to their immediate communities and wider hinterland. Chirton is identified as a 'Small Village' where "some very modest development may be appropriate...to respond to local needs and to contribute to the vitality of rural communities".<sup>20</sup>

Core Policy 2 sets out the delivery strategy; development at Small Villages is limited to infill within the existing built area. Development is supported where they seek to meet housing needs of settlements or provide employment, services and facilities subject to three criteria. In summary, the three are i) respect the existing character and form, ii) does not elongate or impose development in sensitive landscape areas and iii) does not consolidate an existing sporadic loose knit area of development related to the settlement.

Core Policy 18 explains that approximately 600 homes will be needed in the Pewsey Community Area. Any development will need, amongst other things, to conserve the landscape of the North Wessex Downs Area of Outstanding Natural Beauty (AONB) and, where possible, enhance its locally distinctive characteristics. Any development with the potential to increase recreational pressure on the Salisbury Plain Special Protection Area (SPA) will need to contribute towards the Stone Curlew Management Strategy designed to avoid adverse effects on the integrity of the stone curlew population as a designated feature.

The indicative requirement for 2006 - 2026 of 600 houses has now been met through completions 2006 – 2017 and developable commitments 2017 – 2026. As at April 2017, the indicative residual requirement was therefore zero. In response to my query on this, WC advise that this remains the case.

The overall housing requirement figure in the CS is a minimum and the area strategy figures indicative. The CS is clear that Plans should not be constrained by the housing requirements in the CS and that additional growth may be appropriate and consistent with the settlement strategy. The tenor of the CS is to enable community-led proposals to come forward.

Whilst this has formed part of my own assessment, the Basic Conditions Statement contains an assessment of how each Plan policy and community action relates to CS objectives.

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<sup>20</sup> Core Strategy page 42

### ***Emerging planning policy***

WC's website explains that there are a number of plans in preparation. In July 2018, WC submitted the draft Wiltshire Housing Site Allocations Plan, along with a schedule of proposed changes for examination. Consultation is being carried out. The purpose of this document is to support the delivery of new housing set out in the CS through the revision, where necessary, of settlement boundaries and site allocations.

In Autumn 2017, WC and Swindon Borough Council began a review of their Local Plans which in WC's case include the CS, which was proposed to be informed by a Joint Spatial Framework. This is at an early stage and formal consultation is anticipated later in 2019.

There is no legal requirement to examine the Plan against emerging policy. However, PPG<sup>21</sup> advises that the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which the Plan is tested.

Furthermore, Parish Councils and local planning authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging Local Plan and the adopted development plan with appropriate regard to national policy and guidance.<sup>22</sup>

Both WC and the Parish Council advise me, in response to a query on this matter, that the emerging plans have been considered during preparation of the Plan, but progress with the local plan review is not advanced sufficiently to have any implications for this Plan.

### **European Union Obligations**

A neighbourhood plan must be compatible with European Union (EU) obligations, as incorporated into United Kingdom law, in order to be legally compliant. A number of EU obligations may be of relevance including Directives 2001/42/EC (Strategic Environmental Assessment), 2011/92/EU (Environmental Impact Assessment), 92/43/EEC (Habitats), 2009/147/EC (Wild Birds), 2008/98/EC (Waste), 2008/50/EC (Air Quality) and 2000/60/EC (Water).

### ***Habitats Regulations Assessment***

Directive 92/43/EEC on the conservation of natural habitats, commonly referred to as the Habitats Directive, is relevant to this examination. A Habitats Regulations Assessment (HRA) identifies whether a plan is likely to have a significant effect on a European site, either alone or in combination with other plans or projects.<sup>23</sup> The assessment determines whether significant effects on a European site can be ruled out on the basis of objective information.

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<sup>21</sup> PPG para 009 ref id 41-009-20160211

<sup>22</sup> *Ibid*

<sup>23</sup> *Ibid* para 047 ref id 11-047-20150209

A letter dated 3 October 2017 from WC's Senior Ecologist noted that the Plan area "is on the edge of" the Salisbury Plain Special Area of Conservation (SAC) and Special Protection Area (SPA). Recognising the small scale of likely development and the lack of potential mechanisms for effects to occur, it concluded that the Plan would be unlikely to result in significant effects on the Salisbury Plain SAC and SPA. It is not clear whether Natural England (NE) were consulted or responded if consulted on this screening opinion.

In any case, matters have now been superseded. On 28 December 2018, the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) was substituted by a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

I wrote to WC on 4 January 2019 drawing attention to this and asking whether this change to the basic conditions gave rise to any implications for the examination of this particular neighbourhood plan. My letter is attached as Appendix 3.

WC responded on 12 January 2019 with a new Habitats Regulations Assessment of the submitted draft Plan which supersedes the letter of 3 October 2017. This identified two European sites where there is a mechanism for effects; the Salisbury Plain SPA as the Plan area lies within 6.4km of the SPA and the River Avon SAC as the Plan area lies within the catchment of this SAC. The screening concluded that one policy (Policy 1) has potential to give rise to significant effects and therefore an appropriate assessment (AA) was carried out.

The AA concludes in relation to both the River Avon SAC and the Salisbury Plain SPA that the Plan will not have any adverse effects either alone or in combination with other plans and projects.

I asked WC to consider three matters; i) the need to consult Natural England (NE) and any other appropriate body on the assessment, ii) the need for further public consultation on the document and iii) whether any implications arose in relation to Strategic Environmental Assessment and if so what course of action should be taken. These queries were raised as part of a number of queries on 28 January 2019 and attached at Appendix 2.

It was agreed that consultation with NE should be undertaken. NE responded on 8 February 2019 confirming that they concurred with the conclusions of the AA.

On 14 March 2019, WC indicated that no further public consultation would be carried out and confirmed this stance on 21 March 2019. I am advised by WC that this decision by WC, as the competent authority, is based on Regulation 63(4) of the Conservation of Habitats and Species Regulations 2017. This makes it clear that it is not mandatory to consult with the public or other bodies and that it is the competent authority's decision

as to whether it is appropriate to do so [consult the public or other bodies]. WC have explained<sup>24</sup> that their decision is based on the conclusions of the AA.

Given the nature, characteristics and distance of the European sites and the nature and contents of the Plan, I consider that the prescribed basic condition is complied with.

Matters relating to the SEA are discussed below.

### ***Strategic Environmental Assessment***

Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment is relevant. Its purpose is to provide a high level of protection of the environment by incorporating environmental considerations into the process of preparing plans and programmes. This Directive is commonly referred to as the Strategic Environment Assessment (SEA) Directive. The Directive is transposed into UK law through the Environmental Assessment of Plans and Programmes Regulations 2004 (EAPPR).

A Screening Determination of September 2017 carried out by Wiltshire Council concluded that a SEA would not be needed. The requisite consultation with the statutory consultees was undertaken. All three statutory consultees, the Environment Agency (EA), Natural England (NE) and Historic England (HE) responded and all concurred that a SEA would not be required.

It should be noted that the response from NE is not included in Appendix A in the SEA information included in the Basic Conditions Statement. It is however included in the standalone document submitted.

However, as explained above, a new basic condition was effective from 28 December 2018. This resulted in an AA being carried out. PPG<sup>25</sup> explains that “if a plan is one which has been determined to require an appropriate assessment under the Habitats directive then it will normally also require a Strategic Environmental Assessment.”.

As referred to above, my list of questions of 28 January 2019 asked WC to consider whether any implications arose now that the Plan had an AA. WC advised me on 14 March 2019 that as the responsible authority which had determined that the Plan was not likely to have a significant effect, there is no need for further work or consultation on the SEA. This was confirmed on 21 March 2019 when WC indicated that the Statement of Reasons under EAPPR Regulation 9(3) “will be prepared as a separate document” and “in accordance with Regulation 11(1) and 11(2) copies of the determination and statement of reasons sent to each body”.

I have treated the Screening Determination of September 2017 to be the statement of reasons that PPG advises must be prepared and submitted with the neighbourhood

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<sup>24</sup> Emails of 14 March and 21 March 2019 from the Neighbourhood Planning Manager

<sup>25</sup> PPG para 047 ref id: 11-047-20150209

plan proposal and made available to the independent examiner where it is determined that the plan is unlikely to have significant environmental effects.<sup>26</sup>

WC has, in effect, reviewed the SEA work in the light of the Plan requiring an AA however informally this has been done, and WC has reached the conclusion that no further work or implications arise.

I am therefore of the view that EU obligations in respect of SEA have been satisfied.

### **European Convention on Human Rights (ECHR)**

The Basic Conditions Statement contains a statement in relation to human rights. There is nothing in the Plan that leads me to conclude there is any breach of the fundamental rights and freedoms guaranteed under the ECHR or that the Plan is otherwise incompatible with it or does not comply with the Human Rights Act 1998.

PPG<sup>27</sup> confirms that it is the responsibility of the local planning authority, in this case WC, to ensure that all the regulations appropriate to the nature and scope of the draft neighbourhood plan have been met. It is WC who must decide whether the draft plan is compatible with EU obligations when it takes the decision on whether the plan should proceed to referendum and when it takes the decision on whether or not to make the plan.

## **7.0 Detailed comments on the Plan and its policies**

In this section I consider the Plan and its policies against the basic conditions. Where modifications are recommended they appear in **bold text**. As a reminder, where I suggest specific changes to the wording of the policies or new wording these appear in ***bold italics***.

The Plan is presented clearly and contains four policies. There is a useful contents page and glossary at the start of the Plan.

### **1.0 Introduction**

This is a helpful introduction that sets the scene for the Plan and its accompanying documents.

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<sup>26</sup> PPG para 028 ref id 11-028-20150209

<sup>27</sup> *Ibid* para 031 ref id 11-031-20150209

## 2.0 Area Covered by the Plan and Timescale

This section firstly explains the rationale for the Plan area. Arguably this section could now benefit from some updating and may not even be necessary as the Plan moves forward towards its final version. However, this is not a modification I need to recommend given my remit; rather it is something for the Parish Council to consider.

Secondly, the section helpfully confirms the time period covered by the Plan which is 2018 to 2026.

## 3.0 Evidence Base

Whilst there is information contained within the Plan itself, this section explains there are two other documents that support the Plan. These are a “Scoping Report” and the Consultation Statement. It provides a useful signpost for the reader and explains how the Plan has been developed.

## 4.0 Planning Policy Context and Key Issues Covered by it

This section explains the planning policy context for the Parish. It refers to the NPPF published in 2012 and given that it is this NPPF that the Plan must be examined against, this is acceptable. It makes reference to the County-level plans and more locally produced documents such as the Village Design Statement. There is one modification made in the interests of accuracy.

- **Change “DCLG” in paragraph 4.1 on page 4 of the Plan to “*Ministry of Housing, Communities and Local Government (MHCLG)*”**

## 5.0 Physical, Social and Economic Contexts

An interesting section that sets out the main challenges and opportunities for the Parish.

In its representation, WC makes a valid point that other evidence can be used to support affordable housing. A modification is made in the interests of completeness to enable the Plan to provide a practical framework for decision making in line with national policy and guidance.

In paragraph 5.8, reference is made to the lower threshold for affordable housing as being for schemes of 6 -10. There is now a lower threshold of five units or fewer set out



in the revised NPPF as an AONB is a designated rural area.<sup>28</sup> As this would be a material consideration in the determination of any planning application, the Plan should reflect this.

There may be minor typographical errors in paragraphs 5.2 “complementary” instead of “complimentary” and 5.18; “from” instead of “for”. I regard this as something that can be corrected at the final editing stage.

- **Add a new sentence at the end of paragraph 5.6 on page 8 of the Plan which reads: “It is also recognised that evidence of housing need can be found in the housing register and other documents produced at Wiltshire Council level.”**
- **Add a new sentence at the end of paragraph 5.8 on page 8 of the Plan to read: “It is noted that the revised NPPF published in February 2019 allows policies to set out a lower threshold of 5 units or fewer in designated rural areas.”**

## 6.0 From Scoping and Community Engagement to the Plan

A short section that explains how the policies in the Plan were developed.

## 7.0 The Vision

The vision for the area is:

“In 2026, the historic and landscape character of Chirton and Conock will have been preserved and if possible, enhanced. Development, should it occur, will be modest in scale and quantity and of high quality in terms of design and materials. The rural character of the conservation area and the surrounding landscape will be unharmed.

Any development will have contributed towards the maintenance and upgrading of facilities such as the village hall, recreation area and footpath network. New housing will be of modest quantity and include homes aimed at first time buyers and those currently struggling to get onto or progress along the property ladder, with discounted market housing and shared purchase 1 and 2 bedroom units featuring strongly in any development mix. Self-build will be encouraged as a means of enabling more affordable owner occupation and local people will have priority for some affordable housing.

Facilities to replace the lost pub, perhaps including a village shop are an aspiration, as is the achievement of will modest levels of appropriate local

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<sup>28</sup> NPPF 2018 para 63

employment, for example small, low-impact businesses including home-based working. These gains would help to reduce the need to travel and improve the overall sustainability of Chirton and Conock.

Community action will have continued to benefit the Parish in terms of maintaining and enhancing both the built and natural environment, including adapting to climate change, whether by restoring and enriching habitats, maintaining drainage or lobbying to improve road safety and public transport services and infrastructure.”

Whilst the vision is relatively long, it is full of detail covering planning and other more aspirational matters. There is just one ‘stray’ word to delete so that the vision reads particularly well.

In addition, WC suggest, and I agree, that it would be preferable to change the word “preserved” to “conserved” as this would be in line with the language used in the NPPF.

- **Delete the word “will” from the third paragraph of the vision**
- **Change the word “preserved” to “conserved”**

## 8.0 Plan Objectives

The vision is supported by ten objectives. All are articulated well and will help to deliver the vision. In line with my recommendation above and for the same reason, the word “preserve” should be replaced by “conserve” to take account of national policy and guidance.

There is a minor presentational issue in that the number for objective 6 appears in the preceding box. This can be corrected at the final editing stage.

- **Change the word “preserve” to “conserve” in objectives 3 (heritage), 4 (landscapes) and 6 (community wellbeing)**

## 9.0 Policy Selection

This section explains how the policies were developed. At this advanced stage of the Plan making process, arguably this section is unnecessary and could be removed. However, I regard this as a matter for the Parish Council in undertaking finalisation of the draft Plan.

## 10.0 Formal Policies of the NDP

The section on page 17 of the Plan is headed “Policy 1 Housing”. The policy itself appears on page 21 clearly shown in a green box. The preceding pages are supporting text. For the avoidance of any doubt, I suggest the heading is changed. This applies to the other three policies as well. This modification is not repeated later in this report.

There is a typo in paragraph 10.9 on page 18 of the Plan which should be corrected at the final editing stage.

- **Change the headings for each policy section by deleting the words “Policy 1”, “Policy 2”, “Policy 3” and “Policy 4” from pages 17, 23, 24 and 25 respectively**

### Policy 1 Housing

The supporting text to the policy discusses the position with regard to planning policy context and housing supply and need. Given the Parish’s locational constraints of partly falling within the North Wessex Downs AONB in the north and Salisbury Plain in the south of the Parish, the approach taken of including a criteria based policy rather than making site allocations, particularly given Chirton is identified as a ‘Small Village’ in the CS, is appropriate.

However, the supporting text refers to a specific site; Manor Farm, Chirton as being a potential infill site. It discusses the site in some detail including ownership, heritage aspects, acceptability to the community, the issues any development would have to consider and includes a site map on page 19 of the Plan. This map includes an “acceptable site boundary”.

Although the Plan states that the site is not promoted by the Parish Council and is not a site allocation, I regard the way in which the site has been discussed, presented and identified on a map, as akin to a site allocation. This is likely to give rise to considerable confusion within the Plan.

I also have concerns relating to the site which has been identified on the map on page 19. Inadvertently, the achievement of sustainable development may be prevented. This is because the site falls within the Chirton Conservation Area and contains listed buildings and is a historic farmyard. The site should be developed in a comprehensive way that respects this and those buildings around it including No 17, a listed building and its setting which appears to fall within the “acceptable site boundary” but is currently used for parking and access to No 17 which is not shown within the boundary.

Therefore in order to provide a practical framework for decision-making by removing areas of potential confusion to take account of national policy and guidance that the Plan must provide a practical framework for decision-making and to ensure the Plan achieves sustainable development, a number of modifications are recommended.

A second concern arises in relation to affordable housing. Paragraph 10.5 on page 17 refers to a requirement to provide affordable housing on sites of six or more units at 40%. This is not translated into criterion c. of the policy which refers to CS Policy 43 which seeks 40% on sites of five or more dwellings. Paragraph 5.8 of the Plan recognises that provision can take place off-site. It should therefore be revised in the interests of consistency.

There are incidentally two paragraph 10.11, 10.12 and 10.13s on pages 18, 19 and 20. This should be corrected at the final editing stage.

Turning now to the policy itself, Policy 1 has six criteria and the sixth is then followed by five more pertaining to criterion f. All of the main criteria a. – f. are appropriately included and help to direct appropriate growth. Criterion c. needs some revision to bring it in line with current Government policy. One of the sub set criterion requires rewording in the interests of clarity; the parking element referred to in the existing wording of sub criterion iv. is adequately covered in sub criterion v.

Subject to this, the policy is a local reflection of the CS's vision to have stronger and more resilient communities as the community is concerned that the village will stagnate, the objectives of the CS and in particular CS Core Policies 1, 2 and 18. The policy contains sufficient safeguards to ensure that any development is of a small-scale and appropriate to its setting.

- **Add “*and its wider context.*” at the end of paragraph 10.10 on page 18 of the Plan**
- **Delete the sentence which begins “ However, the extent the...” from paragraph 10.11 on page 18 of the Plan in its entirety**
- **Delete the words “(which is within the modern site and ownership boundary and would therefore be a direct part of any scheme)” from the first bullet point from paragraph 10.11 on page 18 of the Plan**
- **Remove the site map on page 19 of the Plan**
- **Delete paragraph 10.11 on page 20 (the second paragraph 10.11 with the table) in its entirety**
- **Delete paragraph 10.12 on page 20 (the second paragraph 10.12 which refers to availability) in its entirety**
- **Delete paragraph 10.13 on page 20 (the second paragraph 10.13 which refers to ownership) in its entirety**
- **Delete the last sentence of the last bullet point of paragraph 10.5 on page 17 of the Plan which begins “Since the NDP...”**

- **Reword criterion c. of the policy to “Affordable housing should be provided in accordance with the *latest adopted development plan policy or national policy where this differs. In Chirton and Conock schemes of five dwellings or more will be required to contribute towards affordable housing. People with local connections should be prioritised for homes in accordance with Wiltshire Council’s Housing Allocations policy.*”**
- **Reword sub criterion iv. of the policy “*The development should be acceptable in relation to the local road network and its capacity.*”**

## Policy 2 Developer Contributions

Policy 2 sets out the community’s priorities for developer contributions. It seeks such contributions in accordance with CS Policy Core Policy 3 and WC’s Revised Planning Obligations Supplementary Planning Document (SPD). Planning obligations can be sought for affordable housing and site-specific requirements. WC also introduced the Community Infrastructure Levy (CIL) from 18 May 2015. It is important that the distinction between CIL and developer contributions, more commonly and generically referred to as planning obligations, is clear.

It is appropriate for the Plan to address local infrastructure needs to ensure that the Parish can grow in a sustainable way and to set out local priorities. The supporting text recognises the level of development likely in this Parish as well as the need for flexibility and the viability of development.

To add clarity so that the policy provides a practical framework for decision-making in line with national policy and guidance, two modifications are recommended. Subject to these modifications, the policy will meet the basic conditions and add local detail to CS Core Policy 3.

- **Change the title of Policy 2 to “*Local Infrastructure Priorities*”**
- **Change the first sentence of the policy to read: “*Infrastructure requirements will be sought in accordance with Wiltshire Core Strategy Core Policy 3 and the Wiltshire Planning Obligations SPD. Qualifying developments will be charged through the Community Infrastructure Levy as appropriate by Wiltshire Council. The Parish Council has identified the following local infrastructure needs and priorities:*” [retain criterion i. to iv.]**

## Policy 3 Design

The Plan recognises the landscape of the Parish with the AONB to the north, Salisbury Plain to the south and the Chirton Conservation Area together with a number of listed

buildings and scheduled ancient monuments and the registered Park and Garden at Conock Manor.

Building on earlier work on a Village Design Statement adopted by the Council, the policy seeks to ensure that new development respects and reflects this unusual context and is of the highest quality. It seeks to add a local context and uphold and enhance local distinctiveness and is a local expression of CS Core Policies 51, 57 and 58 in particular.

The policy is worded acceptably. It meets the basic conditions and no modifications are recommended except to correct terminology.

- **Change “recorded” to “registered” in the first and second paragraphs of the policy**

#### Policy 4 Local Green Space

This policy seeks to designate one Local Green Space (LGS).

The NPPF explains that LGSs are green areas of particular importance to local communities.<sup>29</sup> The effect of such a designation is that new development will be ruled out other than in very special circumstances. Identifying such areas should be consistent with local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. LGS should only be designated when a plan is prepared or reviewed and be capable of enduring beyond the end of the plan period.

The NPPF makes it clear that this designation will not be appropriate for most green areas or open space. Further guidance about LGSs is given in PPG.

The area proposed is the school and recreation area which is shown on page 26 of the Plan. I was able to view the area from the surrounding public footpaths during my visit. The Plan explains that the area meets the criteria in the NPPF as the space is central to the community it serves, it is the only communal open space for outdoor events in the village, the area is much valued and regularly used for outdoor recreation and it is local in character.

The area proposed for designation includes all of the school site in this location. It includes low key buildings, areas of fenced gardens and hardstanding as well as a larger area primarily laid to grass.

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<sup>29</sup> NPPF paras 76, 77 and 78

The policy itself identifies the area, cross-referencing the map and rules out any development consistent with the management approach outlined in the NPPF with the exception of development to “extend, expand, alter or improve the school...”.

This seems to me to suggest an inherent conflict with LGS policy. I do not dispute that at least part of the proposed area may well meet the bullet points in paragraph 77 of the NPPF in that it is in reasonably close proximity to the community it serves, it is demonstrably special to the community and it is local in character; not a large tract of land.

However, the NPPF is clear that the LGS rules out new development other than in very special circumstances (consistent with the management of Green Belts) and should be capable of enduring beyond the end of the Plan period. I do not consider adding further exceptions to those identified in national policy is an appropriate way forward. This demonstrates the unsuitability of the site identified as LGS as it would not be capable of enduring beyond the Plan period.

As part of my questions of clarification, I asked the Parish Council to consider whether it might be more appropriate for a smaller area to be designated; the area without any built structures on it, for example. The Parish Council explained that the buildings on the site and included in the proposed area are readily removed.

I have considered whether a smaller area and/or deleting the reference to school development from the policy would address my concerns. I have regretfully decided they do not.

In reaching this conclusion, I am mindful that the same section of the NPPF refers to a different approach in seeking to protect and ensure sufficient provision in relation to existing open space, sports and recreational buildings and land, including playing fields.<sup>30</sup> The same section also refers to the need to give great weight to the need to create, expand or alter schools.<sup>31</sup>

Therefore, I do not consider the proposed area of LGS as currently put forward would be appropriately designated because of the extent of the area and the need to include further exceptions to development on it to allow the school to continue to function. The Scoping Report lends weight to this concern as it refers to the ideal of a purpose built hall and classrooms however unlikely this might be.

The policy and proposed designation does not therefore take account of the NPPF. In recommending this policy be deleted, I note that the area falls within the AONB and the Conservation Area, two designations which will afford it some protection.

- **Delete Policy 4, its supporting text and map**

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<sup>30</sup> NPPF para 74

<sup>31</sup> *Ibid* para 72

## 11.0 Community Actions

This section contains four community actions. The section appears separately in the Plan which explains its status. The section reads clearly.

## 12.0 Monitoring and Review

Although there is no requirement to monitor or review neighbourhood plans, this section sets out the Parish Council's intention to monitor the effectiveness of the Plan. I welcome this as a point of good practice.

## Appendices

Appendix 1 is a list of the evidence base.

Appendix 2 is a map of the Plan area.

Appendix 3 is a map that shows flood risk. Although flooding is referred to in the Plan there is no reference to Appendix 3 in any of the text or policies of the Plan. Therefore a reference to the map should be inserted in an appropriate location and if retained the map should include information about seeking the latest available information as this information may change throughout the lifetime of the Plan. Alternatively the appendix could be deleted.

Appendix 4 shows the AONB and the SSSI referred to in the Plan. Appendix 5 indicates the Chirton Conservation Area and the location of listed buildings. Appendix 6 shows rights of way. All are appropriately included, but no direct mention is made in the Plan itself of any of these appendices even though the issues are referred to. This should be remedied in the interests of providing a practical framework in line with national policy and guidance.

Appendix 7 is acknowledgements.

- **Refer to Appendix 3 in paragraph 5.4 on page 8 of the Plan and add a sentence to Appendix 3 that reads: *"The information in this appendix is correct at the time of writing the Plan. Up to date information on flood risk should always be sought from the Environment Agency or other reliable sources of information."***
- **Refer to Appendix 4 in paragraph 5.1 of the Plan**
- **Refer to Appendix 5 in paragraph 5.2 of the Plan and add a sentence to Appendix 5 that reads: *"The information in this appendix is correct at the time***



*of writing the Plan. Up to date information on heritage assets should always be sought from Historic England or other reliable sources of information.”*

- Refer to Appendix 6 in paragraph 5.19 of the Plan

## 8.0 Conclusions and recommendations

I am satisfied that the Chirton and Conock Neighbourhood Development Plan, subject to the modifications I have recommended, meets the basic conditions and the other statutory requirements outlined earlier in this report.

I am therefore pleased to recommend to Wiltshire Council that, subject to the modifications proposed in this report, the Chirton and Conock Neighbourhood Development Plan can proceed to a referendum.

Following on from that, I am required to consider whether the referendum area should be extended beyond the Neighbourhood Plan area. I see no reason to alter or extend the Plan area for the purpose of holding a referendum and no representations have been made that would lead me to reach a different conclusion.

I therefore consider that the Chirton and Conock Neighbourhood Development Plan should proceed to a referendum based on the Chirton and Conock Neighbourhood Plan area as approved by Wiltshire Council on 5 December 2016.

*Ann Skippers* MRTPI

Ann Skippers Planning

18 April 2019

## Appendix 1 List of key documents specific to this examination

Chirton and Conock Neighbourhood Plan 2018 – 2026 Submission Draft May 2018

Basic Conditions Statement May 2018

Consultation Statement May 2018

Strategic Environmental Assessment Screening Determination September 2017

Habitats Regulations Screening Assessment Letter 3 October 2017

Habitats Regulations Assessment January 2019

Parish Housing Needs Survey Report May 2017

Scoping Report Submission Draft May 2018

Village Design Statement 2008

Chirton Conservation Area Statement December 2003

Kennet District Local Plan adopted April 2004

Wiltshire Core Strategy adopted 20 January 2015

Revised Wiltshire Planning Obligations SPD October 2016

The North Wessex Downs Area of Outstanding Natural Beauty Management Plan 2014 - 2019

The North Wessex Downs Area of Outstanding Natural Beauty Management Plan 2019 - 2024 Consultation Draft August 2018

Wiltshire Housing Site Allocations Plan Pre-submission draft plan June 2017

Wiltshire Housing Site Allocations Plan Pre-submission draft plan Community Area Topic Paper – Pewsey June 2017

Various documents referred to in the Plan at Appendix 1.

Other supporting documents on <http://www.chirtonandconock-pc.org.uk>

**List ends**

## Appendix 2 Questions of clarification from the examiner

### **Chirton and Conock Neighbourhood Plan Examination**

#### **Questions of Clarification and Other Matters from the Examiner to the Parish Council and Wiltshire Council (WC)**

Having completed my initial review of the Neighbourhood Plan (the Plan), I would be grateful if both Councils could kindly assist me as appropriate in answering the following questions which either relate to matters of fact or are areas in which I seek clarification or further information. Please do not send or direct me to evidence that is not already publicly available.

1. Amongst others, two documents are referred to in the Plan. Please confirm the status (i.e. has it been adopted as current or previous supplementary guidance etc.) of:
  - a) the Village Design Statement
  - b) the Chirton Conservation Area Statement
2. Policy 4 seeks to designate an area at the Primary School as Local Green Space (LGS). Two matters arise (and one might affect the other):
  - a) The accompanying plan includes buildings and other areas which are not green spaces within the proposed designated area. In my view the LGS designation should usually apply to spaces which do not include built structures of this nature. Would the Parish Council like an opportunity to reduce the area proposed and if so, please send me a plan of the revised area
  - b) Recognising that the National Planning Policy Framework<sup>1</sup> states that the policy for managing development within LGSs should be consistent with policy for Green Belts, the policy seeks to introduce an exception supporting school and school related development. Without prejudice, if it was considered that this would be contrary to the NPPF, would the community still wish this policy to be retained?
3. Information before me indicates that the indicative requirement for 2006 - 2026 of 600 houses has now been met through completions 2006 – 2017 and developable commitments 2017 – 2026. As at April 2017, the indicative residual requirement was therefore zero. Is this still the case? And if not, what is the current position?
4. Policy 1 c. refers to affordable housing provision. In the light of the relevant policies at WC level and the latest national level policy, please could this element of the policy be reviewed with a view to advising me on whether it is correct and whether the Plan is consistent between the policy and its supporting text. If inconsistencies are found, what might be the best course of action on this matter?

#### ***Other Matters***

##### *Parish Council Opportunity to Comment*

5. NPIERS, the Neighbourhood Planning Independent Examiner Referral Service, published guidance to service users and examiners last year. This guidance indicates that qualifying bodies will normally be given an opportunity to comment upon any representations made by other parties at the Regulation 16 consultation stage should they wish to do so. There is no obligation for the Parish Council to make any comments; it is only if they wish to do so.

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<sup>1</sup> NPPF para 78

I see that the Parish Council was invited by WC to make comments on the representation from WC only. This invitation should have extended to any other representations received at the Regulation 16 stage.

To remedy this, I am giving the Parish Council an opportunity to comment on any or all of the other representations should they wish to do so. I emphasise that this is not mandatory, but only if there is a wish to do so. It is important to note that any comments will be in the public domain and published on the local planning authority's website.

#### *EU Obligations matters*

6. In response to my letter to WC of 4 January 2019 drawing attention to a new basic condition brought into force by the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 on 28 December 2018, WC prepared a new screening assessment and an appropriate assessment. Three matters arise on which I would be grateful for WC's response:
  - a) the need to consult Natural England on the new assessments
  - b) the need for further public consultation on this document
  - c) the need to consider whether there are any implications arising from this in relation to Strategic Environmental Assessment and if so, what course of action should be taken.

#### *Relationship with Emerging Plans at WC level*

7. WC's website explains that there are a number of plans in preparation. In July 2018, WC submitted the draft Wiltshire Housing Site Allocations Plan, along with a schedule of proposed changes for examination. Consultation is being carried out. The purpose of this document is to support the delivery of new housing set out in the CS through the revision, where necessary, of settlement boundaries and site allocations.

In Autumn 2017, WC and Swindon Borough Council began a review of their Local Plans which in WC's case include the CS, the Chippenham Site Allocations Plan and various mineral and waste plans. This is at an early stage and formal consultation is anticipated later in 2019. WC and Swindon Borough Council are also preparing a Joint Spatial Framework which will inform the Local Plan reviews.

There is no legal requirement to examine the Plan against emerging policy. However, Planning Practice Guidance<sup>2</sup> advises that the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which the Plan is tested. Furthermore Parish Councils and local planning authorities should aim to agree the relationship between policies in the emerging neighbourhood plan, the emerging Local Plan and the adopted development plan with appropriate regard to national policy and guidance.<sup>3</sup>

Accordingly, please advise me of any implications for the Chirton and Conock Plan which arise from the emerging plans being prepared by WC.

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<sup>2</sup> PPG para 009 ref id 41-009-20160211

<sup>3</sup> *ibid*

The questions and other matters are raised without prejudice to my consideration of the Plan against the basic conditions and other requirements.

It may be the case that on receipt of your anticipated assistance on these matters that I may need to ask for further clarification or that further queries will occur as the examination progresses. Please note that this note is a public document and that your answers will also be in the public domain. Both my queries and your responses should be placed on the Councils' websites as appropriate.

With many thanks.  
Ann Skippers  
28 January 2019

## Appendix 3 Letter from the examiner

Letter to Anna McBride  
Wiltshire Council

4 January 2019

Dear Anna,

### **Examination of the Chirton and Conock Neighbourhood Plan Amendment to the Basic Conditions**

I am writing to draw your attention to the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which came into force on 28 December 2018.

Amongst other things, these Regulations amend the basic condition prescribed in Regulation 32 and Schedule 2 (Habitats) of the Neighbourhood Planning (General) Regulations 2012 (as amended) which stated:

- 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.

**The Regulations substitute a new basic condition which states:**

- **The making of the neighbourhood development plan does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.**

The Conservation of Habitats and Species Regulations 2017 include regulations on the assessment of plans (including neighbourhood plans) and projects on European sites or European offshore marine sites. The first stage is to screen the plan to see whether it is likely to have a significant effect on any European site. If the plan is 'screened in' because significant effects cannot be ruled out, the next stage is for an appropriate assessment to be carried out considering the impact on the European site's conservation objectives. Consent for the plan can only be given if it is 'screened out' at the first stage or the appropriate assessment concludes the integrity of the European site will not be adversely affected.

Case law (*People Over Wind, Peter Sweetman v Coillte Teoranta*) ruled that it is not permissible to take account of measures intended to reduce or avoid any harmful effects of a plan or project on a European site at the screening stage. This represented a move away from what was common practice. Any 'mitigation' measures can now only be considered at the appropriate assessment stage.

This resulted in some confusion as to whether neighbourhood plans 'screened in' could progress because of the wording of the basic condition.

The substituted basic condition removes this confusion; it gives certainty that those neighbourhood plans which have been 'screened in' and therefore require appropriate assessment can continue to progress (provided that the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 are met).

The process for appropriate assessment of neighbourhood plans is the same as assessments for Local Plans.

There are no transitional arrangements and so the substituted basic condition applies from 28 December 2018. It will therefore apply to any neighbourhood plans currently at examination or those submitted for examination on or after 28 December 2018.

As all basic conditions must be met by a neighbourhood plan before it can proceed, I would be grateful if you would consider this change to the basic conditions and let me know of any implications arising from it for the examination of this neighbourhood plan. I will reach my own view on this matter as well.

Once you have had an opportunity to consider what, if any, further work needs to be undertaken, I suggest that we agree a way forward for the examination of the Neighbourhood Plan, including any new timescales should further work be required.

This letter should be placed on the relevant Council websites.

With many thanks,

Ann Skippers MRTPI  
Ann Skippers Planning  
Independent Examiner