

## **Westbourne Neighbourhood Plan - 2017-2029 – Examination Report**

### **Submission Version April 2017**

A Report to Chichester District Council into the Westbourne  
Neighbourhood Plan

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## 1.0 Introduction and Role of the Independent Examiner

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- 1.1 Neighbourhood Planning is an approach to planning introduced by the Localism Act 2011 which provides communities with the power to establish the priorities and policies to shape the future development of their local areas. This Report sets out the findings of the examination of the Westbourne Neighbourhood Plan 2017-2029 Submission Version, April 2017.
- 1.2 My role as an Independent Examiner, when considering the content of a neighbourhood plan is limited to testing whether a draft 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). The role is not to test the soundness of a neighbourhood development plan, or to examine other material considerations.
- 1.3 Paragraph 8 of Schedule 4B to the Town & Country Planning Act 1990 (as amended) [excluding 2b, c, 3 to 5 as required by 38C (5) of the Planning and Compulsory Purchase Act 2004 (as amended)], states that the Plan must meet the following “basic conditions”:
- it must have appropriate regard for national policy;
  - it must contribute towards the achievement of sustainable development;
  - it must be in general conformity with the strategic policies of the development plan for the local area;
  - it must be compatible with human rights requirements and
  - it must be compatible with EU obligations.
- 1.4 In accordance with Schedule 4B, section 10 of the Town & Country Planning Act 1990 (as amended), the examiner must make a report on the draft plan containing recommendations and make one of the following three recommendations:
- (a) that the draft order is submitted to a referendum, or
  - (b) that modifications specified in the report are made to the draft order and that the draft order as modified is submitted to a referendum, or
  - (c) that the proposal for the order is refused.
- 1.5 If recommending that the Plan proceeds to a referendum, I am also then required to consider whether the Referendum Area should extend beyond the Westbourne Neighbourhood Plan, designated area to which the Plan relates. I make my recommendations at the end of this Report.
- 1.6 I am independent of the qualifying body, associated residents, business leaders and the local authority. I do not have any interest in any land that may be affected by the Plan and I possess appropriate qualifications and experience.

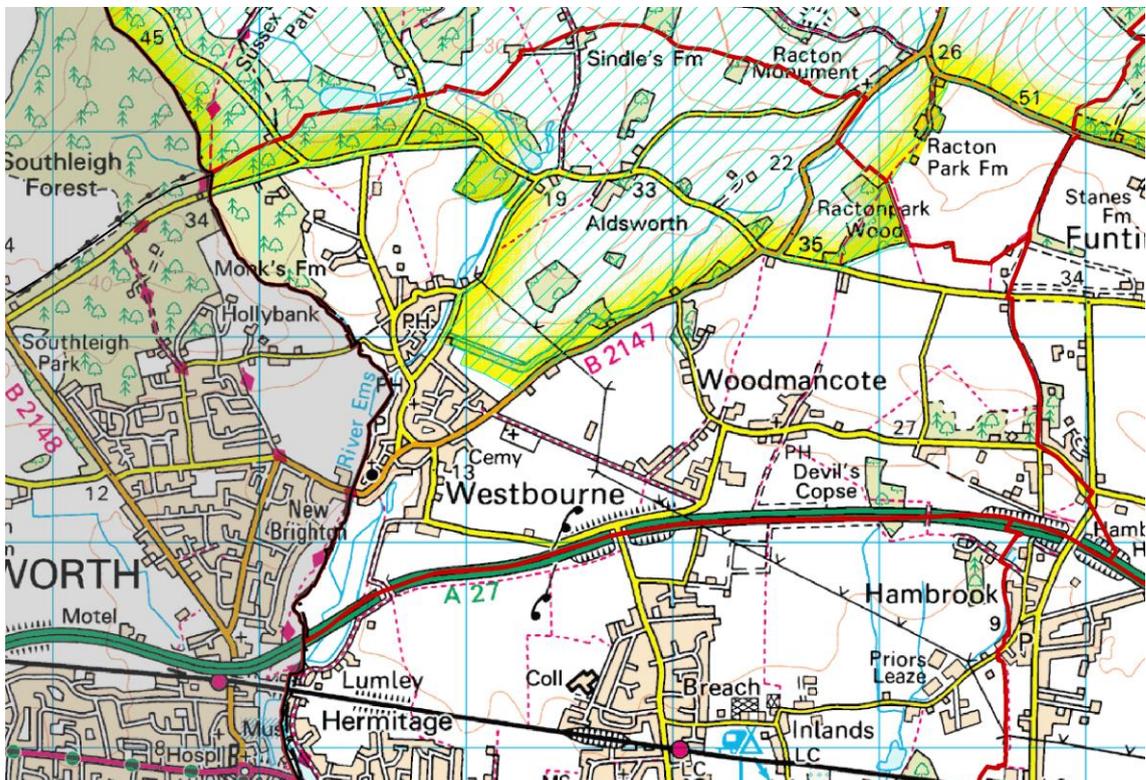
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- 1.7 I was appointed to undertake the independent examination of the submission version of the Westbourne Neighbourhood Plan (WNP) on 6<sup>th</sup> October 2016. The Regulation 16 Consultation ran from Monday 12<sup>th</sup> June 2017 until Monday 24<sup>th</sup> July 2017. I was initially supplied with the following documents submitted to Chichester District Council for this examination by post and via the District Council's and Parish Council's websites comprising:
- The Westbourne Neighbourhood Plan 2017-2029 (Submission Version), April 2017
  - Westbourne Neighbourhood Plan Basic Conditions Statement Submission Version: April 2017
  - Westbourne Neighbourhood Plan Consultation Statement, Submission Version: April 2017
  - Westbourne Parish Council's Evidence Base Documents.
- 1.8 The background documents which I have taken into consideration in undertaking this examination are listed in Appendix 2. These include further documents that I have considered due to the pause in the examination process concerning changes to EU environmental law which came into effect in late 2018 and through advice from the Chief Planner in January 2019. This necessitated the preparation of further assessments which were undertaken on behalf of Westbourne Parish Council by Chichester District Council. The process undertaken is outlined in this examination report together with the findings of the likely effects of draft neighbourhood plan policies proposed in the WNP, if the Plan was to be made.
- 1.9 Further important changes during this period were revisions to the National Planning Policy Framework (NPPF) in 2018 and 2019 and revisions to the National Planning Policy Guidance (PPG). In addition, relevant to this examination has been the introduction of National Design Guidance on 1<sup>st</sup> October 2019 and its revision published in January 2021.
- 1.10 At the sub-regional level, the examination, modification and adoption on 2nd July 2019 has taken place of the South Downs Local Plan (SDLP). This covers the north-eastern part of the designated neighbourhood area. Its policies are relevant for development management purposes within the National Park. To meet the basic conditions test, the WNP policies must conform to the strategic policies of the SDLP concerning development proposals within the National Park.
- 1.11 These adopted strategic planning policy changes are material to the extent to which the WNP meets the Basic Conditions test.

## Westbourne – Background

- 1.12 The Parish of Westbourne, comprising the settlements of Woodmancote, Aldsworth and Westbourne is in the western part of Chichester District Council’s administrative area in West Sussex, adjoining the County boundary with Hampshire and the settlement of Emsworth. Approximately one third of the Parish to the north of the settlement of Westbourne, centred principally on Aldsworth and Aldsworth Common and extending to the west to the County and Parish boundary north of Emsworth Common Road, falls within the South Downs National Park Authority’s administrative area. The extent of the parish within the SDNPA’s administrative area is shown hatched brown on Figure 1 on the Westbourne Context Map in the WNP.
- 1.13 Westbourne lies on the coastal plain between the South Downs and the English Channel. The southern part of Westbourne Parish sits within an area classified as the South Coast Plain in the West Sussex Landscape Assessment whilst the north-eastern and eastern edges of the village lie close to the South Downs National Park.
- 1.14 Agricultural activities comprise mainly arable farming and grazing. Formerly the area was important for growing watercress using artificially made ponds and streams. To the north are large tracts of woodland some of which are designated as Ancient Woodland whilst to the south is the Chichester Harbour Area of Outstanding Natural Beauty (AONB), which includes many areas of special nature conservation.
- 1.15 The coastal plain has been inhabited for about 500,000 years and the area is rich in archaeological potential. The population of Westbourne village in 2011 was 2,309, 1,656 of whom were economically active, occupying about 1,000 households. The demographic profile demonstrates an even population distribution although there is a lower number of people aged 20-29 and a higher number of people aged 45-59 living within Westbourne compared to the rest of the district and SE England. As to the economic profile, the number of self-employed in Westbourne reflects the wider district, which is substantially higher than in West Sussex and the rest of England. The parish’s retired population at 18.4%, similarly reflects that for Chichester District, which is higher than in the rest of the country. There are significantly more people involved in professional occupations than in the Chichester District or in England as a whole. Unemployment at 2.7% is broadly similar to Chichester District but lower than for the remainder of West Sussex.
- 1.16 Westbourne Parish is recognised for the diversity of its buildings, ranging from timber-framed thatched cottages and Georgian mansions to Victorian terraces. There are some 66 Listed Buildings in addition to a similar number of non-designated Heritage Assets.

## Preparation of the Westbourne Neighbourhood Plan

- 1.17 The WNP Consultation Statement, 20th April 2017 asserts that the Parish Council commenced preparation of the WNP in 2013. This statement explains that at the Westbourne Annual Parish Assembly on 25th April 2013 presentations were made on various aspects of producing a Westbourne Neighbourhood Plan by representatives of Chichester District Council (CDC) and the Chairman of Boxgrove Parish Council. Subsequently a public meeting held on 2nd May 2013 resulted in the majority view that Westbourne should produce a Neighbourhood Plan. The WNP Consultation Statement further explains that a Steering Group was established comprising Parish Councillors and local volunteers and that an inception meeting was held on 16th May 2013.
- 1.18 The Consultation Statement provides a detailed chronology of the steps taken to consider the planning issues facing the local community from an initial questionnaire and an 'Interactive' Open Day at Westbourne Parish Hall on Sunday 14th July 2013 to engage further interest. The designation of Westbourne Neighbourhood Area was approved in accordance with the Neighbourhood Planning (General) Regulations 2012 and with section 61G of the Town and Country Planning Act 1990 as amended for the purposes of Neighbourhood Planning by Chichester District Council on 3rd December 2013. The designated Neighbourhood Area is shown on the map below, corresponding to the parish boundary.



- 1/19 The WNP Consultation Statement further records the public engagement and consultation activities that took place in the community over the next year and a half, but it was not until April 2015 that the call for housing development sites was initially concluded. During the summer of 2015, further consultation took place. The site selection process had been difficult due to the perceived limited supply of suitable available sites. The objective at that time was to allocate a number of small sites to supply some 25 new houses in Westbourne to meet the housing supply expectation in the then newly adopted Chichester Local Plan. Simultaneously, the village was embroiled in a planning appeal concerning a proposal to erect 16 dwellings on land North of Long Copse Lane, Westbourne, following an application by Southcott Homes dated 12 March 2014. A hearing took place in October 2015 and a planning decision allowing the development was issued on 14th December 2015. The Consultation Statement records that this appeal decision was generally unpopular in the village. The proposed site allocations were revised. This culminated in the Pre-Submission Plan being drafted in January 2016 following which the WNPSG formally consulted on this Plan, under Regulation 14 of the Neighbourhood Planning (General) Regulations 2012, over the period 26th February to 22nd April 2016.
- 1.20 The Consultation Statement explains that most of the responses were made by local residents, 7 by statutory consultees and 2 by developers. The results of all the consultation responses were tabulated in a consultation spread sheet, analysed and amendments made to the draft WNP.
- 1.21 The changes considered appropriate following consultation were sufficient for CDC to intervene and require that the revised WNP should be subject to further public consultation and thus a further Regulation 14 consultation took place from 14th November 2016 and 6th January 2017.
- 1.22 Following further amendments, the Westbourne NP was published for Reg 16 consultation from the 12 June to 24 July 2017. Fourteen consultation replies were received principally from Statutory Consultees and from three housing developers and promoters. The comments from the consultees concerning the proposed policies are considered in relation to the assessment of the policies of the Plan in section 5.

## Westbourne Parish Neighbourhood Plan – Aims and Objectives

- 1.23 From the Plan preparation process various intentions evolved as indicated in Section 3 of the WNP. The vision for Westbourne Parish comprises seven aims as follows:
- to continue to respect and reflect the views of its community;
  - to evolve whilst retaining its unique and distinctive historic identity and rural character;

- to recognise the unique and separate identities of the main village and the two outlying hamlets;
  - to avoid the erosion of that identity through development which would inappropriately lead to the coalescence of local neighbouring communities;
  - to plan for the appropriate change and evolution of the Parish within reasonable and measured limits;
  - to utilise the Community Infrastructure Levy (CIL) and the Infrastructure Business Plan (IBP) to secure improvements to Westbourne’s infrastructure;
  - to provide for an outstanding quality of life for current and future generations of residents.
- 1.24 These aims and considerations have influenced the preparation of the planning policies in the WNP. These policies are grouped into five themes:
- Broad over-arching policies;
  - Local Distinctiveness policies;
  - Bio-diversity policies;
  - Local Green Space policies; and
  - Westbourne site specific and site allocation policies.
- 1.25 The WNP policies are considered in section 5 of this examination report. I now turn to consider the extent to which the WNP can be said to meet the Basic Conditions test.

## 2.0 Public Consultation

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- 2.1 Part 5 of The Neighbourhood Planning (General) Regulations 2012, “the Regulations”, makes provision in relation to procedure for making neighbourhood development plans. To fulfil the legal requirements of Regulation 15(2) of Part 5 of the Regulations, the consultation statement should contain the following:
- details of people and organisations consulted about the proposed Neighbourhood Plan;
  - details of how they were consulted;
  - a summary of the main issues and concerns raised through the consultation process; and
  - descriptions of how these issues and concerns were considered and addressed in the proposed Neighbourhood Plan.
- 2.2 The Consultation Statement should also demonstrate that there has been proper community engagement and that it has informed the content of the Plan. It should also make it clear and transparent that those producing the plan have sought to address the issues raised during the consultation process. Consultation and community engagement is a fundamental requirement

- / of the Regulations, the process of plan-making being almost as important as the plan itself. The Consultation Statement prepared in relation to the WNP sets out in some considerable detail the setting up of the draft neighbourhood plan from a meeting at the Westbourne Annual Parish assembly in April 2013. The Consultation statement records the meeting on 2nd May 2013 at which the parish agreed that it should prepare a neighbourhood plan, the establishment of a steering group and the approach to Chichester District Council to define the designated area for the draft WNP. The Consultation Statement notes that the area designation for the WNP was agreed on 3rd December 2013. The SDNPA's website advises that it also designated the WNP area on 27th November 2013.
- 2.3 The Consultation Statement chronicles the consultation steps that followed. Firstly, the Westbourne Neighbourhood Plan Steering Group (WNPSG) conducted an initial public consultation to explain the purpose of a Neighbourhood Plan and to establish the local planning issues which were important. This was achieved by way of a household questionnaire survey, which achieved a 40% response. The Consultation Survey explains that this was followed by an Open Day at Westbourne Parish Hall on 14th July 2013 to invite feedback on the main areas of concern identified in the initial questionnaire.
- 2.4 In September and October 2013, the Consultation Statement explains that a Westbourne Neighbourhood Plan website was established as a means of communicating with residents and local businesses in the parish. During 2014 and 2015, it is evident from the Consultation Statement that much work was undertaken to refine the content of the draft WNP and this is cross referenced and included in the supporting documents. The Steering Group and wider community were assisted in this process by Rowena Tyler from Action in Rural Sussex. The Parish called for potential residential sites to be nominated by 18<sup>th</sup> April 2015; these were assessed by the Housing sub-group. A presentation to the Westbourne residents followed on 11<sup>th</sup> July 2015 after which, the Consultation Statement explains that of the 16 sites presented, 13 were considered unsuitable.
- 2.5 The process was disrupted by the planning appeal decision<sup>1</sup> on Southcott Homes appeal in respect of a site in Long Copse Lane. A planning proposal for 22 houses was reduced to 16 units, the proposal being upheld on appeal. By December 2015, the Consultation Statement advises that in order to meet the Local Plan timetable, the Steering Group put forward three housing sites for development, excluding Long Copse Lane on the grounds that the latter had proved unpopular within the community. At this point, the appeal decision was made, allowing the development of 16 dwellings at Long Copse Lane. Consequently, this site was included in the site selection for the WNP, the first draft Pre- Submission Plan (Regulation 14)

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<sup>1</sup> Appeal Ref: APP/L3815/W/15/3003656 Land North of Long Copse Lane, Westbourne, Emsworth, West Sussex, PO10 8SU 14<sup>th</sup> December 2015

- / being re-worked in January 2016. The Regulation 14 WNP was consulted upon from February 2016.
- 2.6 The Consultation Statement records that there were 70 responses: 61 from residents, 7 from statutory consultees and 2 from developers. Due to these comments and replies from statutory consultees, drafting changes were made to the Plan to improve clarity, including:
- A new draft policy OA4, the Community Balance Policy,
  - following consultation with CDC.
  - The development of a car park in a convenient situation close to the village centre was supported by twenty-one local businesses, by way of a petition.
  - Changes to the settlement policy boundary. It was proposed that the original settlement for Westbourne should be retained associated with Policy BE1 in the Local Plan 1999.
- 2.7 Due to the extent of proposed changes to the revised draft WNP, CDC required the WNPSG to undertake a second consultation to allow residents, statutory consultees and developers the opportunity to comment on the revised Plan.
- 2.8 The Consultation Statement notes that the second Pre-submission Plan was made available for full consultation between 14th November 2016 and 6th January 2017. Only 7 responses were submitted by residents and 3 from developers. Two of the developers were seeking higher dwelling numbers on the proposed sites at land adjacent to Chantry Lane and land at Long Copse Lane with a request for fewer restrictions in the draft policies.
- 2.9 After the submission draft WNP was subject to examination, as a consequence of the further work necessary to conform to changes in planning and environmental law introduced following decisions of the CJEU in 2018, the examination was paused. This was to enable further assessments required in order that it might be demonstrated that the WNP conformed with these environmental planning decisions. This programme of work was undertaken by CDC on behalf of Westbourne Parish Council and the Steering Group. This process including the necessary consultation is described in detail in Appendix 1 to this examination report.

## Consultation Summary

- 2.10 The Westbourne Neighbourhood Plan has been subject to extensive consultation over almost four years during the extended Plan preparation period. As a consequence of the comments from the first Regulation 14 Consultation in 2016, the WNP was redrafted, and a second Regulation 14 consultation took place in November 2016 – January 2017. Full background details comprising some 50 documents cross referenced in the Consultation Statement have been provided on the Parish Council's website.

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- 2.11 As indicated in Appendix 1 of this examination report, I am content with the additional consultations undertaken by CDC in relation to the further assessments undertaken in relation to Habitats Regulation Assessment (HRA) and Appropriate Assessment and the related Strategic Environmental Assessment (SEA), following the changes introduced by the CJEU's environmental law decisions in 2018, the effects of which have been incorporated into the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018<sup>2</sup>.
- 2.12 Subsequently, following the additional consultations undertaken by CDC outlined above, Natural England explained that its assessments during 2019/20 indicated that more than 3,000 hectares of the intertidal parts of Chichester Harbour, which is the subject of several European designations, was now classified as being in an "unfavourable - declining" condition. A contributing factor to this change affecting water quality was the build-up of excess nutrients in the Harbour causing eutrophication (algal growth), impacting on the Harbour's ecology and conservation.
- 2.13 Natural England's detailed guidance on achieving nutrient neutrality including a methodology for calculating the "nutrient budget" of proposed development was published in three documents in June 2020<sup>3</sup>. As part of the information needed to determine planning applications, if a relevant proposal is likely to discharge into Chichester Harbour, then a nitrogen budget will need to be prepared and submitted with the planning application. Natural England's Guidance sets out when and how nutrient neutrality must be achieved with catchment maps to clarify the areas that are affected.
- 2.14 Subsequent to Natural England's advice and methodology published in June 2020, CDC explained on its website<sup>4</sup> that sewage from new development using waste-water treatment works or an on-site package treatment plant that discharges to Chichester Harbour contributes to the excess nutrients in the Harbour (albeit in small amounts relative to other sources) and therefore needs to be considered in line with the Habitats Regulations. Consequently, before

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<sup>2</sup> The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations SI 2018 No. 1307

<sup>3</sup> 1) ADVICE ON ACHIEVING NUTRIENT NEUTRALITY FOR NEW DEVELOPMENT IN THE SOLENT REGION Version 5 – June 2020, Natural England

2) SUMMARY ADVICE ON ACHIEVING NUTRIENT NEUTRALITY FOR NEW DEVELOPMENT IN THE SOLENT REGION, Non Technical Summary, Version 2 – June 2020, Natural England.

3) Nitrogen Budget Calculator (Excel)

<sup>4</sup> <https://www.chichester.gov.uk/nutrientneutrality>

agreeing to a proposal including the WNP, the planning authority needed to undertake a Habitats Regulations Assessment and be satisfied that the proposal will not have any adverse impact on the protected site or sites. This process obviously caused further to delay to the examination of the Westbourne NP, already much delayed due to the earlier additional consultations following the changes introduced consequent upon the CJEU's environmental law decisions in 2018 and is explained in more detail in Appendix 1.

## 3.0 Basic Conditions

3.1 Only a draft neighbourhood plan that meets each of a set of basic conditions can be put to a referendum and be made. The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:

**(a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.**

3.2 Before considering the extent to which the WNP conforms to national policies and advice contained in guidance issued by the Secretary of State, it is important to consider the relevant planning policy guidance that is appropriate in the light of revisions made to the NPPF which took place between the date of the submission of the WNP to CDC under Regulation 15 and the subsequent consultation and examination of the Plan. In that period, National Planning Guidance in the form of the National Planning Policy Framework 2012, (NPPF) was recast and published in 2018 and twice further amended in 2019. The transitional arrangements for the examination of neighbourhood plans were set out in paragraph 214 of the revised NPPF (2018), stating, *'The policies in the previous Framework will apply for the purpose of examining plans, where those plans are submitted on or before 24 January 2019'*. Footnote 69 of the NPPF clarified that for neighbourhood plans, *'submission'* in this context meant where a qualifying body submits a neighbourhood plan to the local planning authority under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (as amended). For the avoidance of doubt, as the Regulation 15 submission to CDC was made in 2017, the WNP has been examined for conformity with national policy advice contained in the NPPF (2012), although where appropriate, regard has been given to the NPPF (2019) revisions.

3.3 The NPPF (2012) advises that all plans should be based upon the presumption in favour of sustainable development with clear policies that guide how the presumption should be applied locally. Paragraph 16 of the NPPF acknowledges that the application of the presumption in favour of sustainable development will have implications for how communities engage in neighbourhood planning. In particular neighbourhoods should develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic

- / development and plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan. The Basic Conditions Statement (paragraphs 3.3-3.5) refers to the requirement in the NPPF at paragraphs 183 - 185. The NPPF explains at paragraph 183, that neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to:
- set planning policies through neighbourhood plans to determine decisions on planning applications; and
  - grant planning permission through Neighbourhood Development Orders and Community Right to Build Orders for specific development which complies with the order.
- 3.4 Paragraph 184 of the NPPF requires that the ambition of the neighbourhood plan should be aligned with the strategic needs and priorities of the wider local area and that neighbourhood plans must be in general conformity with the strategic policies of the Development Plan. Furthermore, neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. The WNP also conforms to condition (a) through supporting the delivery of strategic policies of the adopted CLPKP and the strategic policies of the adopted SDLP, in accordance with guidance paragraphs 184 and 185 in the NPPF (2012) and NPPF 2019 at paragraphs 13 and 29, by not promoting less development than set out in the strategic policies for the area, or by undermining those strategic policies.
- 3.5 I am also content that the WNP generally complies with the provisions of paragraph 185 of the NPPF (2012) which seeks to avoid duplication of adopted planning policies covering the same geographic area, at the neighbourhood spatial scale.
- 3.6 Thus, if made with the recommended policy modifications explained in section 5 of this report the WNP would effectively shape and direct sustainable development in Westbourne Parish as envisaged through policy guidance in the NPPF (2012).
- 3.7 I am also content that the WNP generally complies with the provisions of paragraph 185 of the NPPF (2012) which seeks to avoid duplication of adopted planning policies covering the same geographic area, at the neighbourhood spatial scale.
- (d) the making of the neighbourhood plan contributes to the achievement of sustainable development.**
- 3.8 At paragraph 7, the NPPF defines the three dimensions to sustainable development as being, economic, social and environmental; the NPPF sets out the roles that the planning system is expected to perform in relation to each. Whilst the Basic Conditions Statement does not expressly consider the WNP in relation to these three dimensions, I am satisfied that the thrust

- / of the WNP has been prepared in the context of the advice in the NPPF in relation to promoting sustainable development and that the Plan conforms with the NPPF and is mindful of the National Planning Practice Guidance (NPPG), as stated in the Basic Conditions Statement. I am also content that subject to the recommended policy alterations explained in section 5 of this examination report the content of the WNP would reflect the 12 core principles contained in paragraph 17 of the NPPF. The WNP will contribute to the delivery of sustainable development within the Parish as indicated in this examination report and the associated policy recommendations. Application of the WNP policies in reaching future development management decision making having regard to the WNP, if made, will assist in delivering sustainable solutions in the Neighbourhood Area.
- 3.9 The WNP will contribute to the delivery of sustainable development within the Parish as indicated in this examination report and the associated policy recommendations. Application of the WNP policies in reaching future development management decision making having regard to the WNP, if made, will assist in delivering sustainable solutions in the Neighbourhood Area.
- 3.10 ***e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).***
- 3.11 The statutory development plan for Chichester’s planning authority area is the Chichester Local Plan: Key Policies 2014-2029, (CLPKP), adopted 14th July 2015. Since the adoption of the CLPKP, the 1999 Local Plan was replaced other than for those parts of the District which fell within the South Downs National Park. During the initial part of this examination of the WNP, the South Downs National Park Authority was at an advanced stage in the preparation of the South Downs Local Plan. Pre-examination consultation on the SDLP closed on 21st November 2017 following which the SDLP was submitted to Government for independent examination in May 2018. After the Local Plan examination and modification, the SDLP was adopted on 2nd July 2019, thus replacing the 1999 Local Plan across the north and north-eastern part of the parish covered by the South Downs National Park. In summary, the CLPKP excludes the area within the South Downs National Park for planning policy guidance where the adopted South Downs Local Plan (2014-33) applies.
- 3.12 In anticipation of the adoption of the SDLP, the Basic Conditions Statement relating to the WNP carefully compares the draft WNP policies against the (then) draft SDLP policies, in addition to the relevant adopted CLPKP policies. In assessing the extent to which the WNP meets the Basic Conditions test, I have considered the extent to which the submission version of the WNP conforms to the strategic adopted policies of both the Chichester Local Plan: Key Policies 2014-2029 and the South Down Local Plan (2014–33), (SDLP).

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- 3.13 In relation to that part of the designated neighbourhood area falling within the South Downs National Park, (see Fig 1 in the WNP), compliance with the relevant strategic policies in the more recently adopted SDLP is necessary with regard to WNP draft policies OA2, OA4-2, LD2, LD3, BD1, BD2 and SS1. These are considered in section 5 of this report.
- 3.14 The CLPKP, adopted in July 2015, explains in the Introduction from paragraph 1.10 how this Local Plan is linked to Neighbourhood Planning. The text states that the Local Plan has been prepared to provide a strategic evidence base for Neighbourhood Development Plans and Neighbourhood Development Orders, including Community Right to Build Orders. Moreover, the Local Plan states at paragraph 1.11:
- a. *“All of the policies set out in the Local Plan are considered to be strategic in nature and therefore Neighbourhood Plans and Orders will need to conform with these policies unless there are specific local circumstances, accepted by the Local Planning Authority, which warrant a specific local approach to be taken. Neighbourhood Development Plans and Orders will have the opportunity to take forward some of the issues highlighted within the Local Plan in more detail.”*
- 3.15 The SDLP by contrast defines the Plan’s strategic policies in paragraph 1.15 as those policies “which are considered fundamental to achieving the overall Vision for the National Park and are linked to its special qualities”.
- 3.16 I am content that the submission version WNP, subject to the recommended policy alterations, is in general conformity with national and adopted strategic local planning policies and that the WNP does not promote less development than set out in the adopted CLPKP and SDLP or undermine their strategic policies. I consider the extent to which each WNP draft policy conforms to the relevant adopted strategic policies in section 5 of this examination report.
- 3.17 ***f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.***
- 3.18 The Basic Conditions Assessment confirms that Chichester District Council was consulted and a Strategic Environmental Assessment (SEA) was not required in relation to the WNP. This is evidenced in the letters of 18 February 2016 and 25 October 2016 from the District Council to the Chairman of the Parish Council, that on the basis of the contents of the neighbourhood plan as then proposed, following amendments made as a result of the previous pre-submission consultation, and subsequent consultation with the relevant statutory agencies in accordance with Regulation 9(2) of the Environmental Assessment of Plans and Programmes Regulations

- / 20045, an environmental assessment of the Westbourne Neighbourhood Plan was not required due to there being no adverse comments from the Statutory Bodies and that the Westbourne Neighbourhood Plan was in accordance with the provisions of the European Directive 2001/42/EC as incorporated into UK law by the Environmental Assessment of Plans and Programmes Regulations 2004. I note that the screening opinions were justified in each case by reference to a schedule of the criteria (from Annex II of SEA Directive 6 and Schedule I of the Regulations).
- 3.19 The European Habitats Directive (92/43/EC)<sup>7</sup> requires ‘appropriate assessment’ of plans and projects that, either alone or in combination with other plans and projects, are likely to have a significant impact on national and international designated sites. The Basic Conditions Statement confirms that in the preparation of the CKPLP this matter was addressed in terms of the level of overall housing provision, by the relevant assessments carried out at that time. The Basic Conditions Statement when prepared in April 2017 could not have anticipated the changes and further assessments required to meet the changes which arose following CJEU<sup>8</sup> decisions in the following year, necessitating extensive further work undertaken by CDC on behalf of the Parish of Westbourne throughout 2019 and 2020 and considered in this report as part of this examination. It will be evident that the diligent work undertaken on behalf of WPC to conform with these requirements, as detailed in Appendix 1 to this report commenced in January 2019 and were finally concluded on 25th November 2020.
- 3.20 On 25th October 2016, Chichester District Council advised Westbourne Parish Council that on the basis of the contents of the neighbourhood plan following amendments made as a result of the previous pre-submission consultation, and subsequent consultation with the relevant statutory agencies in accordance with Regulation 9(2) of the Environmental Assessment of Plans and Programmes Regulations 2004, that the screening determination of the Council was that an environmental assessment of the Westbourne Neighbourhood Plan was not required on the basis that the WNP, either alone or in combination with other plans and projects, was not likely to have a significant impact on national and international designated sites. No adverse consultation comments from the Statutory Bodies had been received in relation to the criteria from Annex II of SEA Directive attached to the screening opinion letter. I note that this opinion was endorsed by the South Downs National Park Authority. The Basic Conditions Statement explains that in the case of the Westbourne Neighbourhood Plan matters of likely

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<sup>5</sup> The Environmental Assessment of Plans and Programmes Regulations 2004, <http://www.legislation.gov.uk/uksi/2004/1633/contents/made>

<sup>6</sup> Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive)

<sup>7</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora

<sup>8</sup> Court of Justice of the European Union (CJEU)

- / environmental impact of the WNP regarding the level of overall housing provision had already been addressed by the relevant assessments carried out for the adopted Chichester Local Plan: Key Principles 2014-2029 and that no appropriate assessment under the Habitats Regulations was required. At the time, the submission of the WNP and supporting documents made to CDC at the Regulation 15 stage, the WNP was almost certainly in accordance with the then provisions of the European Directive 2001/42/EC as incorporated into UK law by the Environmental Assessment of Plans and Programmes Regulations 2004.
- 3.21 However, as a result of decisions in the CJEU in 2018, as explained in Appendix 1, it was necessary to undertake further assessments once the regulatory framework had been altered and extended to encompass the effects of these decisions. The steps taken by CDC to assist the WNPSG are also explained in Appendix 1 and have been examined as part of this report in terms of meeting the resulting extended basic conditions to conform to the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 which introduced a further basic condition requiring that any plan or project, likely to have a significant effect on a European site, must be subject to an appropriate assessment. To meet the condition, it should be demonstrated that in the making of a neighbourhood development plan, it is not likely to cause a significant effect on a European site or a European offshore marine site. In addition, Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) prescribes a further basic condition that in the making of a neighbourhood plan, the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017<sup>9</sup> (which sets out the habitat regulation assessment process for land use plans, includes consideration of the effect on habitats sites) will not be breached.
- 3.22 The further assessments undertaken by CDC in relation to the Habitats Regulations Assessment and Appropriate Assessment on behalf of the Qualifying Body and summarised in this examination report are considered as part of this neighbourhood plan examination.
- 3.23 The completed Environmental Report, including Technical Summary, to accompany the submission version of the Westbourne Neighbourhood Plan was forwarded to me on 3rd December 2019 shortly before publication on the CDC website, thus completing the then outstanding procedures required by the Council in relation to Appropriate Assessment and SEA to support the submission version of the WNP.
- 3.24 I note that from this Environmental Report that any likely effects of development proposed within the WNP policies and identified through the proposed monitoring framework, may be mitigated via the Solent Recreation Mitigation Partnership. To the extent that any unexpected and harmful effects might arise, I note that the conclusion is that these may be mitigated on

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<sup>9</sup> The Conservation of Habitats and Species Regulations 2017  
<http://www.legislation.gov.uk/ukxi/2017/1012/contents/made>

- / subsequent review of the WNP. The SEA concluded that provided mitigation measures were implemented, none of the policies would result in a significant negative impact on the environment. On the evidence presented and subject to extensive consultation and review, I have no reason to doubt the veracity of either the approach taken, or the findings of these supplementary assessments and therefore will comply with Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment. (The Strategic Environmental Assessment (SEA) Directive); and Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive).
- 3.25 As explained in the Consultation Summary, in section 2 above, during 2020, it became necessary to undertake further environmental assessment due to the findings of Natural England in 2019/2020 that more than 3,000 hectares of the intertidal parts of Chichester Harbour, the subject of several European designations, was now classified as being in an "unfavourable - declining" condition. A contributing factor to this change affecting water quality was the build-up of excess nutrients in the Harbour causing eutrophication (algal growth), impacting on the Harbour's ecology and conservation. This required the preparation of a revised Habitats Regulation Assessment (HRA) and Appropriate Assessment Statement; and an Addendum to the Environmental Report for Strategic Environmental Assessment (SEA) of Westbourne Neighbourhood Plan to address nutrient neutrality. This further significant assessment programme undertaken by CDC on behalf of the Qualifying Body has contributed to the environmental and habitats regulations evidence base, reflecting the changes that had taken place in European environmental law during the examination of this Plan. The associated consultation procedures which were concluded in November 2020 are described in more detail in Appendix 1, section 3 in this examination report. Due to the mitigation measures to be provided in-perpetuity through the secured contributions to the Solent Recreation Mitigation Strategy, Chichester District Council concluded that the Westbourne Neighbourhood Plan will not lead to any significant or adverse effects on the integrity of the Chichester and Langstone Harbours SPA / Ramsar Site. No dissent was expressed during the consultation which closed in November 2020. Importantly, CDC's conclusion is supported by Natural England.
- 3.26 I therefore consider that the preparation of the WNP has been undertaken in conformity with European Regulations in respect of Strategic Environmental Assessment and concur that in relation to the Habitats Directive, the Birds Directive, and the Ramsar Convention, there are no European sites in the vicinity which would be likely to be impacted having regard to appropriate mitigation, as a consequence of the WNP either individually, or in combination with other projects.
- 3.27 An Equality Impact Assessment (EqIA) of the WNP policies has been undertaken, which concluded that the WNP was compliant with the Equality Act 2010. This assessment is summarised in Section 7 of the Basic Conditions Statement.

- 3.28 The Basic Conditions Statement avers that the Neighbourhood Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights<sup>10</sup> and therefore complies with the Human Rights Act 1998<sup>11</sup>. I agree with this conclusion having had regard to the draft policies and suggested amendments as a consequence of this examination and am of the opinion that these are unlikely to have any prejudicial effects on Human Rights and the related Equality Act 2010 if the Plan were to be made in accordance with my recommendations in this examination report. I am content that the Plan does not breach and is not otherwise incompatible with the European Convention on Human Rights.
- 3.29 ***g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).***
- 3.30 In accordance with the Town and Country Planning Act, 1990 Schedule 4B, Paragraph 5, I am satisfied that the submission plan proposal is not a 'repeat' proposal (i.e. Chichester District Council has not refused a submission under paragraph 12 or Section 61E and it has not failed a referendum).
- 3.31 I am satisfied that Westbourne Parish Council is the qualifying body, which has prepared the WNP. Westbourne Parish Council is the body which submitted the Plan and is a qualifying body for the purposes of making a neighbourhood development plan. Designation of Westbourne Neighbourhood Area was approved in accordance with the Neighbourhood Planning (General) Regulations 2012 and with section 61G of the Town and Country Planning Act 1990 as amended, for the purposes of Neighbourhood Planning, by the South Downs National Park Authority (SDNPA) and Chichester District Council on 27th November 2013 and 3rd December 2013 respectively as a joint plan.
- 3.32 As required by the Planning and Compulsory Purchase Act 2004, Section 38B (1) (c), I am also satisfied that the WNP does not relate to more than one neighbourhood area and that there is no other Neighbourhood Development Plan in place within this Neighbourhood Area.
- 3.33 Concerning the requirement to comply with the requirements of the Town and Country Planning Act, 1990 Schedule 4B, Paragraph 6 (2) (c) and the Neighbourhood Planning (General) Regulations 2012 (as amended) – Regulation 15, I confirm that Westbourne Parish Council, as Qualifying Body, has submitted the following:

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<sup>10</sup> European Convention on Human Rights 1950 (as amended)

[https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

<sup>11</sup> Human Rights Act 1998, <http://www.legislation.gov.uk/ukpga/1998/42/contents>

- A map identifying the area to which the Plan relates;
  - A consultation statement (which contains details of those consulted, how they were consulted, summarises the main issues or concerns raised and how these have been considered and where relevant addressed in the proposed neighbourhood development plan under Regulation 15 (2) (a);
  - The proposed neighbourhood development plan; and
  - A statement explaining how the neighbourhood development plan meets the ‘Basic Conditions’ requirements of paragraph 8 (2) of Schedule 4b to the 1990 Act.
- 3.34 *The map identifying the area to which the Plan relates.*
- 3.35 The Designated Area of the WNP is shown on Fig 1, page 2c of the WNP Basic Conditions Statement and is shown on page 7 of this report. The boundary follows the Parish Boundary and includes the hamlets of Woodmancote and Aldsworth. It was agreed at the Hearing on 25th October 2017, that Figure 2, showing the Westbourne Designated Neighbourhood Area, did not have a sufficiently distinct boundary and this map should be removed in favour of the boundary shown as the parish boundary clearly identified on “Figure 1, the Westbourne Context Map” and renamed “Figure 1, the Westbourne Context Map and Designated Neighbourhood Plan Boundary”.
- 3.36 *The Consultation Statement*
- 3.37 The consultation processes and activities undertaken in connection with the preparation of the WNP and explained in the Consultation Statement prior to the commencement of the examination of this neighbourhood plan are considered in section 2 of this examination report. I am satisfied that the approach of the Steering Group as explained both in the Consultation Statement and at the hearing on Wednesday 25th October 2017, has been undertaken on an open and transparent basis and that the WNPSG has responded appropriately in undertaking revisions to the draft WNP in preparing amendments to the Submission Version of the WNP.
- 3.38 The process and management of the community consultation has been satisfactory and I am confident that the Consultation Statement outlining the terms of reference and actions of the Westbourne Neighbourhood Plan Steering Group, the supporting evidence from the surveys, events, workshops, consultation correspondence and feedback leading to the formulation of draft policies and subsequent pre-submission and submission plan consultation on the draft Plan policies, adequately fulfils Section 15 (2) of Part 5 of the Neighbourhood Planning Regulations 2012 and Section 16 of these Regulations in relation to publicising the consultation opportunities during the preparation of the WNP.
- 3.39 I am therefore satisfied that the consultations described in the WNP Consultation Statement taken together with the further assessments and related consultations undertaken by CDC in 2019 on behalf of Westbourne Parish Council, comply with Section 15(2) of part 5 of the

- / Regulations and that the proposed neighbourhood development plan meets the requirements of paragraph 8 of Schedule 4B to the 1990 Act, in accordance with Regulation 15(1) of part 5 of the Regulations.
- 3.40 The WNP meets the definition of a 'Neighbourhood Development Plan' in that it sets out policies in relation to the development and use of land in the neighbourhood area and therefore complies with the requirement of the Planning and Compulsory Purchase Act 2005, Section 38A (2).
- 3.41 The 'Neighbourhood Development Plan' (as defined under Section 38A), specifies the time period for which it is to have effect. The period of the Plan is 2017-2029, as defined in the title of the WNP. The 12-year life is also referenced in the Plan, thus the requirement of the Planning and Compulsory Purchase Act 2004, Section 38B (1) (a) is satisfied. The WNP is thus coterminous with the life of the adopted CLPKP 2014-2029 and within the period covered by the SDLP which extends further to 2033.
- 3.42 I confirm that the WNP does not include any policies relating to excluded development, including minerals, waste or nationally significant infrastructure projects, as defined in s61K of the Town & Country Planning Act 1990 (as amended). Thus, the requirement of the Planning and Compulsory Purchase Act 2005, Section 38B (1) (b) is also satisfied.
- 3.43 *Basic Conditions - interim findings, prior to consideration of the WNP policies*
- 3.44 I set out a summary of my overall findings in section 6 of this examination report.
- 3.45 The Basic Conditions Statement summarises the vision of the draft Plan and how it satisfies the Basic Conditions tests by reference to meeting the legal requirements summarised in this section of my report (other than the procedural steps undertaken in 2019 by CDC that were required for the WNP to conform to the decisions of the European Court and the related changes to the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.)
- 3.46 In Section 5 of this report, I consider the draft WNP policies and the extent to which they are compatible with national and local adopted planning policies and make recommendations regarding those policies, as appropriate to satisfy the Basic Conditions. Subject to my recommendations being acceptable concerning the policy modifications suggested in this report, I concur with the Basic Conditions Statement that the Plan policies relate to land use planning matters (the use and development of land) and that this neighbourhood plan has been prepared in accordance with the statutory requirements and processes set out in the Neighbourhood Planning (General) Regulations 2012.

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## 4.0 Background Documents

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- 4.1 The background documents referred to in this examination report are listed in Appendix 2.

## 5.0 Planning Policies and explanatory text

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- 5.1 I now consider each of the WNP draft planning policies within the Plan and the explanatory text. The policies are arranged in 5 groups as follows:

- Overarching policies;
- Local Distinctiveness policies;
- Biodiversity policies;
- Local Green Space policies; and
- Westbourne site-specific policies.

- 5.2 Where in my opinion, the explanatory text requires some alteration those changes suggested in this report are advisory and for clarification, they are not mandatory in order to meet the Basic Conditions test. If the WNP is to proceed to referendum, the recommended alterations to the policies must be accepted by the Parish and the District Council in order that the Plan may move forward to that stage.

- 5.3 In relation to the explanatory text, the District Council has kindly drawn attention to various matters in its Regulation 16 response of July 2017. I recommend that for clarification, paragraph 1.1.4 of the Submission Version of the Plan be amended to read:

*“1.1.4 Westbourne Parish Council applied for the whole Parish to be designated as a Neighbourhood Plan Area and approval was given by Chichester District Council (CDC) on 3rd December 2013 and South Downs National Park Authority (SDNPA) on 27 November 2013.”*

### Overarching policies

- OA1: Sustainable Development Policy
- OA2: Economy – Local Economy and Employment Policy
- OA3: Community Facilities Policy
- OA4: Community Balance Policy

### Policy OA1: Sustainable Development Policy

- 5.4 This policy states:

**Policy OA1: Sustainable Development**

- 1 **Within the Settlement Boundary, as shown in Figure 5, there is a presumption in favour of sustainable development that will apply to proposals that meet all the policies of this plan.**
  - 2 **Outside the Settlement Boundary, development proposals will not normally be considered either appropriate or sustainable unless:**
    - (i) **they comply with all other policy requirements of the development plan; or**
    - (ii) **it is sustainable development where the benefits demonstrably outweigh the harms, and is of a form or type that could not reasonably be located within the Settlement Boundary; or**
    - (iii) **they are rural exception sites to meet local need.**
  - 3 **Development proposals within the Parish will need to take account of all the NP policies to demonstrate that they have considered and accommodated the following, including:**
    - (i) **The proposals do not adversely impact the local gaps, views and countryside identified in the WNP (Policy LD4);**
    - (ii) **The proposals are to be accompanied by a Landscape and Visual Impact Assessment to show there is no overall adverse harm to the area (policy LD4);**
    - (iii) **The proposals are to be accompanied by a study to demonstrate that there would be no negative impact on local biodiversity. This will include potential harms arising from changes to access points and visibility splays to accommodate typical vehicles (Policy BD2);**
    - (iv) **The proposals are to be accompanied by technical studies to show that the proposal does not give rise to detrimental increases in levels of activity and traffic, noise and disturbance;**
    - (v) **The proposals are to be accompanied by an expert assessment of the potential impact on any designated or undesignated heritage asset and its setting where appropriate (Policy LD3).**
- 5.5 As to conformity with the current NPPF policy guidance, I concur with the assessment in the Basic Conditions Statement that Policy OA1 is consistent with promoting sustainable transport, (paragraph 30); delivering a wide choice of high quality homes, widen opportunities for home ownership and creating sustainable, inclusive and mixed communities. There is no specific guidance in the National Planning Policy Framework (NPPF) relating to (paragraph 50); directing development away from areas of greatest flood-risk, or incorporating mitigating design (paragraph 100); and conserving landscape and scenic beauty in National Parks and Areas of Outstanding Natural Beauty and the conservation of wildlife and cultural heritage (paragraph 115).
- 5.6 Concerning conformity with CLPKP, Westbourne NP OA1 is consistent with CLPKP Policy 1, in that housing development will be directed to agreed identified sites reflecting local need,

- adjacent to the settlement boundary. Policy OA1 also complies with CLPKP Policy 2 and the Service Village designation of Westbourne which implies that the settlement will be the focus for new development and facilities including small scale housing developments consistent with Policy CLPKP Policy 5 where the indicative housing numbers for Westbourne in the period 2012-2029 is 25 dwellings.
- 5.7 Policy CLPKP Policy 2 also provides for the review of settlement boundaries, “... through the preparation of Development Plan Documents and/or Neighbourhood Plans, reflecting the following general approach:
1. Respecting the setting, form and character of the settlement;
  2. Avoiding actual or perceived coalescence of settlements; and
  3. Ensuring good accessibility to local services and facilities”.
- 5.8 I note that referring to Neighbourhood Plans in the context of CLPKP, Policy 5 states:
- “7.30 A Neighbourhood Development Plan and its policies will work alongside, and where appropriate replace, the policies in the Local Plan where they overlap. The policies will only apply to the specific area covered by that Neighbourhood Development Plan or Order. Existing Settlement Boundaries may be reviewed through Neighbourhood Development Plans. In order to demonstrate delivery of housing numbers, if work on a Neighbourhood Development Plan stalls or is turned down by the community at the referendum stage, the Council may identify sites and review Settlement Boundaries in the Site Allocation DPD or subsequent development plan documents”.*
- The plain meaning of paragraph 7.30 is that reviewing existing settlement boundaries in preparing neighbourhood plans within the Chichester DC’s administrative area is to demonstrate the location of “Parish Housing Sites”, identified to provide the delivery of dwellings in Policy 5. This in my opinion requires some spatial planning for such dwellings and making an *a priori* adjustment to an existing settlement boundary to accommodate the dwellings identified, rather than a “post-hoc” adjustment to the settlement boundary, which would be the antithesis of planning a neighbourhood.
- 5.9 Ideally there should be a consistency of approach towards the treatment of settlement boundaries within neighbourhood plans made within Chichester District. At the Hearing it was clear that there is not the case. Some neighbourhood plans include the proposed housing development sites within the settlement boundaries, whilst others, as proposed at Westbourne, exclude the housing allocations within the Plan. It was put at the Hearing by the Parish Council that the reason for only including development within a revised settlement boundary after development had taken place was due to the likelihood that the allocated sites also include land for other non-housing uses such as buffer land on the settlement edge. To the extent that the WNP site allocations in the draft Plan exceed the indicative housing delivery

- / expectation in Policy 5 of the CLPKP, I accept that in this instance, these allocations should be excluded from the settlement boundary in the WNP, but included as appropriate, on a review of the Local Plan or Neighbourhood Plan if by then the sites have been developed.
- 5.10 During the Hearing, it was agreed that the Westbourne Settlement Boundary as identified in Figure 6, page 15 in the WNP should not be altered to encompass the land allocated for housing but remain as proposed in the submission draft neighbourhood plan.
- 5.11 When the Hearing took place on 25<sup>th</sup> October 2017, I was interested in the relationship between the emerging Village Design Statement (VDS) and the submission version of the WNP. The emerging VDS had also been prepared by the WNP Steering Group. The emerging VDS “submission version” had been published in April 2017 and drafted contemporaneously with the submission version of the WNP. It was evident however that there was an inconsistency between the two documents relating to the settlement boundary. At the time of the Hearing there was a shared intention between the Steering Group and CDC that the emerging VDS would be taken forward to public consultation with a broad intention that the guidance would be refined and adopted by CDC as non-statutory guidance. The emerging VDS would then supersede the adopted Westbourne VDS adopted in 2000 and become a material consideration where relevant in determining planning applications in the parish.
- 5.12 During the 3-year period between October 2017 and February 2021 I have been informed that there has been no progress in advancing the VDS. Plainly the extensive and unexpected additional work undertaken by CDC on behalf of the Steering Group over more than two years has been a significant burden on the resources of the legal and planning policy departments of the council. It was necessary that CDC ensured that the procedural steps were undertaken with regard to conformity with process introduced by the United Kingdom government and guidance from the Chief Planner in January 2019 regarding the decisions of the Court of Justice of the European Union (CJEU) in 2018. Without this novel intervention, the WNP could not meet the Basic Conditions, triggering an automatic failure of the WNP at examination. This delay has therefore been unfortunate but unavoidable if the WNP was to have any prospect of meeting the Basic Conditions test. The impact on the emerging VDS has been that this has not been advanced as expected at the time of the hearing. The current adopted VDS is over 20 years old and would benefit from revision. It nonetheless still retains utility by encouraging the use of appropriate design and materials, reflecting and reinforcing local distinctiveness concerning development proposals in the parish.
- 5.13 In February 2021, I was advised by CDC that the intention of the Qualifying Body and District Council is to resume joint working to bring forward a revised VDS to complement the policies in the WNP. I am encouraged that there is now a renewed ambition to bring forward an

- / updated VDS for Westbourne, building on the earlier work prepared by the Westbourne Neighbourhood Plan Steering Group during 2015-2017.
- 5.14 Consequently, the emerging VDS is unlikely to be formally revised and adopted in the very near future. At present under the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 (SI 2020/395), where a local planning authority has issued a decision statement containing a detailed intention to send a neighbourhood plan to referendum, (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012), the Plan can be given significant weight in decision-making so as long as the NP is material to the planning application. Dependent upon the resources of CDC it is theoretically possible that the WNP could become effective in influencing development management advice and decision making in the neighbourhood area quite soon, if my recommendations set out in this examination report are accepted.
- 5.15 It should be recognised that my remit does not extend to consideration of the emerging VDS. For avoidance of doubt, in terms of the extent to which the submission version of the WNP meets the Basic Conditions, including whether the draft WNP conforms to adopted local strategic guidance, neither the content in the adopted nor emerging VDS has influenced my consideration regarding conformity of the WNP policies with the strategic policies of the adopted CLPKP.
- 5.16 The criteria identified in Policy OA1-2, which provide limited flexibility to allow development beyond the settlement boundary are practical and would help deliver sustainable development within the Parish.
- 5.17 As to the third element of this policy, OA 1 – 3, at the Hearing consideration was given to whether the following criteria were disproportionate given the relatively small scale of the housing development that the WNP has identified and where development might take place. I note that the Regulation 16 comments of Chichester District Council and objections by Gladman Developments Ltd and Neame Sutton on behalf of Southcott Homes (Fareham) Limited raise similar concerns for greater flexibility within this policy, whilst Historic England support OA1-3(v).
- 5.18 At Long Copse Lane proposals for residential development have already been granted planning permission on appeal and the housing has been developed. The remaining sites to come forward for development as identified within the WNP are SS1, Land to the West of Monk's Hill and SS3, Land adjacent to Chantry Hall, Foxbury Lane. Each site is anticipated to deliver 6 dwellings. Policy OA 1-3 ii-iv as drafted requires:

- / *“Development proposals within the Parish will need to take account of all the NP policies to demonstrate that they have considered and accommodated the following, including:....*
- (ii) The proposals are to be accompanied by a Landscape and Visual Impact Assessment to show there is no overall adverse harm to the area (policy LD4);*
  - (iii) The proposals are to be accompanied by a study to demonstrate that there would be no negative impact on local biodiversity. This will include potential harms arising from changes to access points and visibility splays to accommodate typical vehicles (policy BD2);*
  - (iv) The proposals are to be accompanied by technical studies to show that the proposal does not give rise to detrimental increases in levels of activity and traffic, noise and disturbance;...”*
- 5.19 Given that these sites have already been evaluated by the Parish and considered appropriate for residential development, at least in part, for small scale residential development, it appears that to require proposals to be accompanied by assessments to demonstrate no adverse planning harm will be caused by proposals, may be unreasonable and unrealistic as it may be feasible to mitigate harm to an acceptable level through the use of planning conditions and / or planning agreements. In addition, it is necessary to read forward through this examination report to consider my assessments of the appropriateness of other relevant policies to the extent that they might be acceptable in delivering sustainable development in Westbourne.
- 5.20 The requirement that the preparation of development proposals should take account of all WNP policies may not be necessary for all forms of development. Only relevant policies would be appropriate to inform, guide and manage particular proposals. In relation to specific town planning matters covered in other policies, including Policy LD3, LD4 and BD2, it should not be necessary to repeat policy guidance in Policy OA1.
- 5.21 I note that there are no traffic related planning policies in the WNP. In relation to traffic matters the WNP is clear that this is not an area that has been covered in the preparation of this neighbourhood plan. This is set out in paragraphs 1.6.1 - 1.6.2. These state:
- “This plan is the culmination of a large evidence gathering and consultation exercise. The neighbourhood plan itself only contains the key points that emerged from several years of work. This document contains the vision, spatial strategy, site allocations and key land use policies.*
- This Neighbourhood Plan should be read in conjunction with supporting evidence, available in hard copy or online on the Westbourne village website, <http://www.westbournevillage.org/>. This includes:*
- 1 Village Design Statement.*
  - 2 SEA screening opinion.*
  - 3 Technical reports on Traffic and Parking”.*

- 5.22 It would not therefore be appropriate for the WNP to seek technical studies to show that a proposal does not give rise to detrimental increases in levels of activity and traffic, noise and disturbance, when there is no evidence to indicate what levels of activity and noise may be regarded as being unacceptable.
- 5.23 For these reasons and having regard to my recommendations as to other relevant policies in the WNP, I recommend that Policy OA 1– 3 be amended to read:

~~“Development proposals within the Parish will need to demonstrate that they have had regard to all relevant NP policies. take account of all the NP policies to demonstrate that they have considered and accommodated the following, including:~~

- ~~(i) — The proposals do not adversely impact the local gaps, views and countryside identified in the WNP (Policy LD4);~~
- ~~(ii) — The proposals are to be accompanied by a Landscape and Visual Impact Assessment to show there is no overall adverse harm to the area (policy LD4);~~
- ~~(iii) — The proposals are to be accompanied by a study to demonstrate that there would be no negative impact on local biodiversity. This will include potential harms arising from changes to access points and visibility splays to accommodate typical vehicles (Policy BD2);~~
- ~~(iv) — The proposals are to be accompanied by technical studies to show that the proposal does not give rise to detrimental increases in levels of activity and traffic, noise and disturbance;~~
- ~~(v) — The proposals are to be accompanied by an expert assessment of the potential impact on any designated or undesignated heritage asset and its setting where appropriate (Policy LD3).~~

- 5.24 Reflecting on the Regulation 16 comment by Natural England, concerning the reference to “*bio-diversity*” in Policy OA1-3 (iii), I do not consider it is necessary to expand on the term in the policy and note that the Parish has adequately defined the term in the Glossary to the WNP to provide further guidance.
- 5.25 The recommended policy amendment would provide appropriate flexibility to dispense with assessments that may not be necessary for the scale of development proposed.

## Policy OA2: Local Economy and Employment

**1 Proposals that result in the loss of shops or business premises will not normally be supported unless it can be demonstrated that the shops or businesses are no longer viable, and an alternative shop or business would not be viable on the site through a market testing exercise, as prescribed in CLPKP Appendix E, that reflects the site’s current value in a business use.**

- 2 **New employment development proposals including changes of use to retail or business will be supported where they are consistent with all the policies in this plan, throughout the Parish.**
- 3 **Redevelopment of small-scale sites for employment uses in the countryside will be supported where it can be shown to meet an essential need and encourage local employment in line with CLPKP Policies 45 & 46.**
- 5.26 This policy is in accord with NPPF (2012) advice in paragraphs 18, 28 and 70, promoting a thriving rural economy and safeguarding the retention of vital shopping facilities and to guard against the loss of these uses which might increase the propensity to travel to other centres. Concerning the policy guidance in the CLPKP, Policy OA2 accords with Policy 26, which is generally encouraging and permissive towards development of employment floorspace. Policy 26 indicates that planning permission will be granted for alternative uses on land or floorspace currently, or previously in employment generating uses where it is demonstrated that the site is no longer required and is unlikely to be re-used or redeveloped for employment use. The explanatory memorandum advises that Appendix E to the CLPKP provides the criteria that need to be satisfied and marketing evidence necessary to justify such proposed changes of use and development.
- 5.27 Regulation 16 comments in respect of this policy were made by CDC and SDNPA. The District Council has sought that “employment uses” should be defined by reference to the Use Classes Order. I note that the CLPKP only qualifies employment and retail uses to be protected by reference to use classes in connection with proposed changes of use in the primary and secondary retail areas in the centre of Chichester under Policy 27. Since CLPKP Policy 29, the relevant policy providing protection to employment and retail in “Settlement Hubs and Village Centres”, including Westbourne, do not specify or limit the application of such protection provided to particular employment or retail use classes, it would be unnecessary to make such distinctions within the WNP policies.
- 5.28 The SDNPA commented that it may not be appropriate or proportionate for Policy OA2 to require compliance with all other policies in the Development Plan.
- 5.29 There were no other consultation replies regarding this policy at the Regulation 16 stage.
- 5.30 Policy OA2 has been affected by the third update to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) which was made on 23rd June 2020 and became effective on 1st August 2020, except Part 4 Class BA and Part 12 Class BA which ran from 25th June. I am grateful to planning consultant Lisa Jackson on behalf of Westbourne Parish Council for picking up the impact of the changes to the Use Classes Order on Policy OA2, introduced in September 2020. I have reflected these changes on Policy OA2 in updating this examination report below. The changes are profound and provide extensive freedoms for

- / landowners and developers to change the use of buildings including undertaking some physical development within certain constraints without the need for planning permission. These freedoms introduced to provide more flexibility in the use of land to reflect the economic challenges caused by the SARS-CoV-2 pandemic are constrained by a complex set of rules relating to floorspace limits and a re-scheduling of uses within specific use classes to which land and buildings can be put without the need to obtain planning permission. Further complications arise in instances where prior approval may be required from local planning authorities relating to matters including:
- transport and highways impacts
  - contamination and flooding risks
  - impact on the adequate provision of services and sustainability
  - design or external appearance of the building (where building operations are required)
- 5.31 The effect of these changes means that it is no longer possible for local planning authorities to exercise the extent of land use control and in some instances the quantum of physical development, since developers now generally enjoy a greater ability to exercise land use choice without recourse to the local planning authority. Accordingly, the degree of development control sought at the time when the WNP policies were drafted is no longer lawful.
- 5.32 The first limb of Policy OA2 would be unlawful having regard to the national land use policy relaxations introduced last year relating to changes of use of retail and business premises. In these circumstances, viability testing will also no longer be appropriate.
- 5.33 The second limb of the policy, concerns support for new employment proposals. Having regard to Policy OA1, such development to be sustainable would be expected to be located within the settlement boundary. The settlement boundary is tightly drawn around the built form of the settlement. Therefore, new employment proposals are likely to involve redevelopment of existing sites within the settlement, or changes of use. In relation to the urban form and land uses within the settlement, new employment proposals are likely to be small scale and comprise changes of use of existing commercial rather than residential uses. As such, they are likely to comprise buildings already in a use within Class E, Commercial, Business and Service uses. These comprise:
- E(a) Display or retail sale of goods, other than hot food
  - E(b) Sale of food and drink for consumption (mostly) on the premises
  - E(c) Provision of:
    - E(c)(i) Financial services,
    - E(c)(ii) Professional services (other than health or medical services), or
    - E(c)(iii) Other appropriate services in a commercial, business or service locality
  - E(d) Indoor sport, recreation or fitness (not involving motorised vehicles or firearms)

- E(e) Provision of medical or health services (except the use of premises attached to the residence of the consultant or practitioner)
  - E(f) Creche, day nursery or day centre (not including a residential use)
  - E(g) Uses which can be carried out in a residential area without detriment to its amenity:
    - E(g)(i) Offices to carry out any operational or administrative functions,
    - E(g)(ii) Research and development of products or processes
    - E(g)(iii) Industrial processes
- 5.34 It is probable that new employment opportunities will arise from time to time within the Westbourne settlement boundary from land and buildings already in the array of activities within Class E. Planning permission would not be necessary in most instances to effect such changes of use within Class E. The nature of demand and urban economics is such that where retail and business use cease, the likely land use demand will be for a change of use to residential. Within Class M of the GPDO, it would be possible for developers / landowners to take advantage of the permitted development right to facilitate a change of use to residential without the need for planning permission.
- 5.35 Beyond the settlement boundary, in the “countryside”, the third limb of Policy OA2, seeks to support the redevelopment of small-scale sites for employment uses in the countryside where it can be demonstrated to meet an essential need and encourage local employment in line with CLPKP Policies 45 & 46. Policies CLPKP 45 and 46 relate to proposals in the countryside for new development and alterations change of use and/or re-use of existing buildings in the countryside, respectively. Within Class R of the GPDO, subject to limitations, it would be possible for developers / landowners to take advantage of the permitted development right to facilitate a change of use from agricultural to a flexible commercial use without the need for planning permission. In such cases, Policy OA 2, 3 would be unlawful. Again, in such circumstances, developers / landowners are likely to be encouraged to take advantage of the permitted development right to facilitate a change of use of such agricultural buildings to residential use under Class R, without the need for planning permission. CDC might seek to withdraw such permitted development rights by an Article 4 Direction or imposition of planning conditions, but that would be at the discretion of the local planning authority and is not a matter that could be controlled by a neighbourhood plan.
- 5.36 For the reasons and complications introduced by changes in central government policy concerning the GDPO and the Use Classes changes from 1<sup>st</sup> September 2020, I recommend that Policy OA2 should be deleted from the WNP.

### Policy OA3: Community Facilities

**Proposals that result in the loss of community uses within the Parish will not normally be supported, unless it can be demonstrated that the community use is no longer**

required and an alternative community use cannot utilise the building or site as demonstrated through a market testing exercise as prescribed in CLPKP Appendix E, which reflects the site's current value in a community use. The development of sites inside or outside the settlement boundary for public car parking facilities that serve the use of retail/commercial activities in the village by passing trade, as well as the continuing use of community facilities will be supported providing they comply with all other policy requirements of the plan.

**For both Policy OA2 and OA3 a market exercise must take place for at least 12 months, as prescribed in CLPKP Appendix E. The site/building must be marketed effectively at an appropriate price that reflects its current use.**

- 5.37 This policy is consistent with the guidance in the NPPF at paragraphs 18, 19 and 70 by helping to achieve economic growth to create jobs and prosperity whilst ensuring that the planning system does everything it can to support sustainable economic growth. The policy assists in guarding against the unnecessary loss of valued facilities and services, particularly where this might reduce the community's ability to meet its day-to-day needs and by ensuring that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and where feasible retained for the benefit of the community.
- 5.38 As to the CLPKP, Policy OA3 complies principally with Policy 38 which seeks to retain community facilities, unless it can be demonstrated that there is no longer a demand for the facility within the area; the proposed development would provide a beneficial facility to the local community; and there is provision for new or replacement facilities to meet an identified need, well related and easily accessible to the settlement or local community. CLPKP Policy 38 requires by way of demonstrating a lack of demand, that the property in its existing use should be marketed as set out in the guidance in Appendix E to the CLPKP. Appendix E requires that the subject property is exposed to the market for a reasonable period. The guidance provides for some flexibility reflecting the likelihood that some properties and particular uses may require a greater or lesser marketing period than others and the fortunes of the economy wax and wane over time, which may also influence what will constitute a reasonable marketing period. Thus, Appendix E advises that the type and scale of marketing should be commensurate with the scale of the facility proposed to be lost, but in general, applicants should provide evidence that the site has been vigorously and exhaustively marketed for between a year and 18 months. Also, the guidance encourages that the advice of the District Council should be sought prior to the commencement of any marketing campaign to ascertain the period and extent of marketing required and to discuss the extent of alternative uses that are required to be explored at the outset.
- 5.39 Policy OA3 generally adopts the marketing principles as set out in Appendix E to the CLPKP. The WNP refers to a "market testing exercise." For reasons of potential perceived bias, as

- / explained in relation to Policy OA 2, I recommend that the terms, “market testing exercise” and “market exercise”, which appear in the draft policy, be replaced with “market testing” and “marketing” respectively.
- 5.40 In undertaking market testing in accordance with the provisions of CLPKP Appendix E, the following matters are said to be minimum requirements, in paragraph E5:
- Confirmation by an appropriate marketing agent on headed company paper that the premises were appropriately and extensively marketed for the required length of time;
  - How interest in the site has been objectively dealt with;
  - Details of the conditions/state of the land/premises and their upkeep before and during marketing and viability;
  - Details that the marketing price is realistic;
  - Dated photographs of marketing board/s on the premises of an appropriate quality, size, scale, location and number during this time;
  - An enquiry log, how it was followed up and why it was unsuccessful;
  - A copy of all advertisements in the local press and trade journals (should be at least four weeks’ worth of advertisements, spread across a six-month period);
  - Evidence of marketing via the internet.
- 5.41 Thus, to comply with Appendix E, it is necessary that the property should be marketed for the required length of time and at a market price that is realistic. Accordingly, the penultimate and final sentence of Policy OA 3 may be removed as these matters will be part of the minimum requirement of Appendix E.
- 5.42 I believe the recommended amendments to policies OA 2 and OA 3 above would satisfy the concerns of both CDC and SDNPA in relation to their Regulation 16 replies concerning the mechanism to deal with the loss of retail and employment uses within Westbourne.
- 5.43 As to the provision of public car parking within the settlement, the WNP makes no justification for parking in relation to Policy OA 3 in the explanatory text to this policy. As CDC has indicated in its Regulation 16 comments, the aim of Policy OA3, relates to protecting the loss of community facilities and how proposals for alternative development and land uses should be approached in policy terms. I agree that including within this policy guidance in relation to the provision of additional car parking in the village is a separate matter and would be more appropriately included in the consideration of housing proposals, where the WNP seeks to justify additional parking as part of mixed-use housing development in Westbourne. For this reason, I recommend deleting reference to public car parking facilities from Policy OA 3.
- 5.44 For the reasons explained above, I recommend that Policy OA 3 be amended as follows:

## 5/45 Policy OA3: Community Facilities

Proposals that result in the loss of community uses within the Parish will not normally be supported, unless it can be demonstrated that the community use is no longer required and an alternative community use cannot utilise the building or site as demonstrated through market testing **exercise** as prescribed in CLPKP Appendix E., ~~which reflects the site's current value in a community use.~~

~~The development of sites inside or outside the settlement boundary for public car parking facilities that serve the use of retail/commercial activities in the village by passing trade, as well as the continuing use of community facilities will be supported providing they comply with all other policy requirements of the plan.~~

~~For both Policy OA2 and OA3 a market exercise must take place for at least 12 months, as prescribed in CLPKP Appendix E. The site/building must be marketed effectively at an appropriate price that reflects its current use.~~

## Policy OA4: Community Balance

Development proposals for any new dwellings must demonstrate that they provide an appropriate choice of homes to contribute towards meeting identified housing needs throughout the Parish and should be accompanied by a 'dwelling mix statement' submitted as part of any planning application to show how the proposal meets specific needs. This statement should provide details of how it meets local needs, including those of young people, local workers, small families, older residents (55+) and people with disabilities. Any proposal that results in the net increase in dwellings or pitches/plots must demonstrate that there will be a mixture of tenures throughout the area and not give rise to any areas of isolated groups of one tenure to ensure social integration.

### OA4-1 HOUSING FOR YOUNGER PEOPLE

Any new proposals for the provision of housing for younger households, by way of appropriate starter homes, affordable housing development, live/work and self-build initiatives will be considered in accordance with the NPPF and Policy 34 of the Chichester Local Plan: Key Policies and government guidelines. The Parish Council will give priority to provision of affordable housing in time for the next review of the NP. Proposals for multi-generational living in an existing single household that preserve amenity and comply with all other policies in the plan will be considered where they are secured through legal agreements to prevent separate occupation by unrelated households.

### OA4-2 GTPS PLOTS/PITCHES

**Applications for additional Gypsies, Travellers and Travelling Showpeople pitches/plots within the Neighbourhood Plan area will be resisted, as the supply for the identified need for this type of accommodation has already been exceeded for the plan period within the District, which has been disproportionately met by provision within Westbourne Parish. This is to ensure that the current balance between the various sectors of the local community will be retained; any further provision of GTTSP plots or pitches would erode the current mix and balance of tenures and would not be acceptable to the community. Given the lack of identified need, any new consent would be wholly exceptional and in this regard if deemed to meet the exceptional circumstances the proposal would need to pass the strict physical tests applied within the National Park for this type of development.**

#### **OA4-3 HOUSING FOR OLDER PEOPLE**

**Any new proposals for the provision of housing for older people that meet the wide range of their circumstances and lifestyles will be welcomed and considered in accordance with Government Policy and guidance. The Parish Council will support initiatives to assist older residents to downsize their homes to free up housing stock for younger residents where these are consistent with the other policies of the plan. Proposals for multi-generational living in an existing single household that preserve amenity and comply with all other policies in the plan will be considered where they are secured through legal agreements to prevent separate occupation by unrelated households**

5.46 This draft policy was a major reason why I decided it would be appropriate to convene a Hearing to improve my understanding of the housing and homelessness issues in Westbourne and the planning policy initiatives that were being sought by way of draft Policy OA 4, the “community balance” policy. The policy requires residential development proposals for any new dwellings must demonstrate that an appropriate choice of homes to contribute towards meeting identified housing needs throughout the Parish will be provided and should be accompanied by a ‘dwelling mix statement’ to show how the proposal meets specific needs. The policy specifically requires that details to be provided in the dwelling mix statement shall include details of how the proposal will meet local needs, including the needs of:

- young people;
- local workers;
- small families;
- older residents (55+); and
- people with disabilities.

The policy also requires that where the proposal would create a net increase in the dwelling stock, including plots and pitches for travellers, the *proposal “must demonstrate that there will be a mixture of tenures throughout the area and not give rise to any areas of isolated groups of one tenure to ensure social integration”*. The policy then provides details of planning expectations in relation to proposals specifically for younger people, plots and pitches for gypsies, travellers and travelling showpeople and housing for older people.

5.47 The Basic Conditions Statement indicates that the policy conforms to the NPPF paragraphs 50, 56, 58, 69 and 70. There is no doubt that the objectives of Policy OA 4 reflect the housing mix and choice ambitions of NPPF paragraph 50 to a considerable extent. The aspect of “community balance” which is missing from the WNP however is the absence of any express provision towards affordable housing in the community over the Plan period. I note the District Council’s comment in relation to the assessment of housing need in its Regulation 16 comment, advises that paragraph 4.6.25 of the Strategic Housing Market Assessment (SHMA) recommended mix (or any successive document), should form the initial basis of the mix requirement, whilst taking account of local need evidence and that this should be reflected in the policy.

5.48 The Parish Council in preparing its evidence base for the WNP and policy formulation cites the following documents in relation to housing need:

- CDC Housing Information Westbourne December 2014
- CDC SHLAA March 2010
- CDC SHLAA March 2013
- CDC SHLAA MAY 2014
- CDC SHLAA May 2014 Map
- Appendix I Laying The Foundations; A Housing Strategy For England
- Westbourne Settlement Capacity Profile 2013

Housing Information Westbourne, December 2014 prepared by CDC provided a comprehensive assessment of local housing supply and need within the parish at that time of the preparation of the WNP. The conclusion and advice to the Parish at that time was:

*“We suggest that the main issues you need to consider are;*

- i) **Affordable housing** - *There is substantial demand for affordable housing in Westbourne. We are aware you are looking to meet your housing numbers through identifying small windfall sites, it must be noted that due to changes in National Policy the parish will no longer receive affordable housing quotas on sites with less than 11 units. Exception sites could be considered to meet the local housing need (outside of your neighbourhood plan as the figures do not count towards your total housing numbers) if you were to pursue identifying windfall sites within your plan.”*

5.49 Notwithstanding the clear identification of need for affordable housing, I find it surprising that the Parish Council expressly state in Policy OA 4 that *“The Parish Council will give priority to provision of affordable housing in time for the next review of the NP”*, although failed to do so in the preparation of the current neighbourhood plan. It is only because the CLPKP set the indicative housing supply figure of 25 homes in the Plan period and, paradoxically, housing

supply in the parish was boosted through the appeal decision at Long Copse Lane, (including the provision of affordable housing), that the WNP has not failed the advice in the NPPF setting out the core national planning principles at paragraph 17 (third bullet point) and also NPPF paragraph 50. The allocation of the two additional housing sites (SS1 and SS3), each of approximately 6 dwellings, fall below the national threshold whereby affordable housing would need to be provided on site. Only as a consequence of the appeal decision at Long Copse Lane (Site SS2), allowing the development of 16 dwellings, has the following affordable housing has been provided:

**2 intermediate tenure dwellings of the following mix and sizes:**

- 1 x 2 bedroom house with a minimum floor area of 75.5m<sup>2</sup> (GIA); and
- 1 x 3 bedroom house with a minimum floor area of 86m<sup>2</sup> (GIA).

**4 Affordable Rented units of the following mix and sizes:**

- 2 x 2 bedroom apartments each with a minimum floor area of 67m<sup>2</sup> (GIA);
- 1 x 2 bedroom house with a minimum floor area of 82m<sup>2</sup> (GIA); and
- 1 x 4 bedroom house with a minimum floor area of 100m<sup>2</sup> (GIA).

5.50 The Long Copse Lane appeal decision has provided for the delivery of some affordable housing in the parish. This allocation has since been included in the WNP in Policy SS2. It is disappointing that notwithstanding the clear evidence of need, a mixed tenure housing allocation, including affordable housing, was not included in the initial preparation of the draft Plan. It is to be hoped that on subsequent revisions of the Plan, affordable housing will in the future form part of planned housing allocations. In the context of the Long Copse appeal decision, where 6 affordable dwellings have been successfully provided through this appeal decision made during the preparation of the WNP, it is unsatisfactory that paragraph 4.6.3 of the WNP states:

*“Regrettably it has not been possible to identify land suitable to accommodate affordable housing during the preparation of this Plan, but such is the Parish Council’s concern for the future of the community in this respect, that high priority will be given to identifying and securing affordable housing in time for the next review of the plan. (see 1.1.8).”*

5.51 This matter was discussed at the Hearing and although explanations were given as to why it was not feasible to allocate land for affordable housing in the parish despite manifest need, it appears that having regard to this need identified in the evidence base in the various SHMAs, the recommendation of the District Council in “Housing Information Westbourne”, December 2014 referred to above and Chichester District Council Settlement Capacity Profiles - Update October 2013 for Westbourne, the approach to affordable housing provision in the WNP gives the perception of a failure to plan positively which might, in the absence of the Long Copse

appeal decision, amount to a reason to fail the WNP having regard to the advice in the NPPF setting out the core national planning principles at paragraph 17 (third bullet point) and also NPPF paragraph 50. For this reason, I recommend that the final sentence of paragraph 4.6.3 of the explanatory memorandum be amended to read:

~~“Regrettably it has not been possible to identify land suitable to accommodate affordable housing during the preparation of this Plan, but such is the Parish Council’s concern for the future of the community in this respect, that~~ A high priority will be given to identifying and securing affordable housing in time for the next review of the plan. (see 1.1.8).”

5.52 At the Hearing, Members of the Steering Group explained the Parish Council’s intention of establishing a Community Land Trust as a delivery mechanism to assist in delivering new housing to meet local housing need. I was delighted to hear in February 2021 that during the intervening period that the Parish has successfully established a trust and that a site has been pursued in the parish for the delivery of an exception site for the delivery of affordable housing and this is nearing fruition.

5.53 I note from the supporting statements forming part of the planning application for development of this site at “Land North Of 30 To 56 Mill Road Westbourne West Sussex”<sup>12</sup> that Westbourne Community Trust was formed in November 2018 as a community land trust in the legal format of a community benefit society (registered number 7872). The vision for the Trust, focused on the Parish of Westbourne, is to make Westbourne a better place to live. The primary objectives for the Trust are stated as being:

- provision of affordable housing that is locally owned and controlled for the benefit of residents of the Parish who have housing needs
- stimulating the regeneration of the village through a range of community projects.

The Affordable Housing Statement explains that the 12 dwellings to be delivered will be *“affordable for people with a local connection to Westbourne. The rented homes will be let at no more than 80% of market rent value. The village has a significant housing need as shown by the housing needs survey and as such these homes would go towards meeting this demand. The ongoing management of the site will either be through the Community Trust themselves applying to become a Registered Provider or the Community Trust will become affiliated to a registered provider and manage the site on that basis”*. This is a significant achievement. In finalising the supporting text in the WNP for Policy OA4 it would be appropriate to explain the initiative taken by the Parish Council in accelerating the provision of affordable housing for the local community harnessing through the trust and planning system. This approach offers the ability for neighbourhood planning to secure significant affordable housing supply for local communities that might be applied more widely across the country.

<sup>12</sup> 20/01061/FUL Construction of 12 no new dwellings with associated car parking, improvements to play area and amenity space. Land North Of 30 To 56 Mill Road Westbourne West Sussex

- /
- 5.54 As to the site allocations for SS1 and SS3, the provision for the payment of commuted sums towards off-site affordable housing in the District will apply in accordance with CLPKP Policy 34 (2), where the housing provision is between 6 and 10 dwellings and no on-site provision is made.
- 5.55 Regarding the requirement that any new dwellings must demonstrate that they provide an appropriate choice of homes to contribute towards meeting identified housing needs throughout the Parish and should be accompanied by a 'dwelling mix statement' submitted as part of any planning application to show how the proposal meets specific needs, it is not clear that any guidance exists to justify this policy expectation in Policy OA 4. It is clear from the evidence referred to in support of the policy that certain unmet housing needs exist, but this has not been translated into even broad guidance within the community balance policy, the site allocation policies for housing or supporting explanatory text, where developers, landowners or their advisors might find guidance as to what might be required generally for housing proposals for housing schemes or for specific sites. For example, from the housing evidence supplied to the Parish Council by CDC entitled "Westbourne Housing Information December 2014", there would appear to be a particular need for smaller dwellings, including 1 bed housing units. The housing evidence also notes that smaller dwellings are more affordable to provide by housebuilders as well as being more affordable to occupy by households. The housing evidence supplied by CDC clearly indicates that within Westbourne there is a need for affordable dwellings, with 22 residents in the parish being on the housing waiting list in August 2014. It is again unfortunate that the Westbourne NP whilst articulating particular housing needs provides no quantitative guidance as to how proposals might meet the identified need within Westbourne over the life of the Plan.
- 5.56 At the Hearing, it was suggested by Lisa Jackson, planning consultant to the parish, that the policy might be amended to give appropriate further guidance in this area as follows:

"Draft revised OA4 Policy

Policy OA4: Community Balance

Development proposals for any new dwellings must demonstrate that they provide an appropriate choice of homes to contribute towards meeting identified housing needs throughout the Parish and should be accompanied by a 'dwelling mix statement' submitted as part of any planning application to show how the proposal meets specific needs including compliance with Chichester District Council's Strategic Housing Market Assessment. This statement should provide details of how it meets Policy 34 Chichester Local Plan: Key Policies including local needs, including those of young people, local workers, small families, older residents (55+) and people with disabilities. Any proposal that results in the net increase in

- / dwellings or pitches/plots must demonstrate that there will be a mixture of tenures throughout the area and not give rise to any areas of isolated groups of one tenure to ensure social integration.....”
- 5.57 Policy 34 of the CLPKP relates to the provision of affordable housing. As previously indicated, the WNP makes no provision for the delivery of affordable housing, other than through the appeal decision at Long Copse Lane, as considered above. CLPKP Policy 33 sets out seven criteria for new residential development and replacement dwellings. Compliance with all of these is a prerequisite for the grant of planning permission. None of the criteria relate to the provision of housing restricted to specific community groups in preference to others despite the supporting statement indicating that support will be given for proposals for the delivery of “specialist” housing by reference to “...housing for older persons including Lifetime Homes, sheltered, and extra-care housing where it meets identified needs and does not conflict with other priorities.” The reference to Policy 34 is in the context of the provision of affordable housing which sheltered, assisted living and extra-care housing will be expected to provide on-site. It is not apparent how a dwelling mix statement, if provided as part of a planning application for housing development within the parish, could be objectively assessed or tested in the context of the WNP, particularly in the absence of any clear criteria and justification. I do not doubt, just as with affordable housing that there is a local need for housing for specific groups including, for example, young people, local workers, small families, older residents (55+) and people with disabilities as listed by the policy, but no evidence is provided in the WNP sufficient justify such restrictions.
- 5.58 For these reasons I recommend that the first paragraph of draft Policy OA 4 should be deleted together with references to it in the supporting text.

**Policy OA 4 -1, Housing for younger people**

- 5.59 As to Policy OA 4(1), which provides for a housing policy for younger people, I note that there is no similar planning policy requirement in the NPPF, although there are provisions for the elderly. To the extent that there are housing benefits and concessions to benefit younger individuals and families, these tend to be fiscal rather than town planning in nature. There are no housing-based town planning use and occupancy benefits affecting young individuals and families. In relation to the supporting text to this policy in the WNP, this simply states that, “For housing young households any appropriate sustainable initiatives will be supported”. Similar support towards sustainable housing initiatives would presumably be given to all households in housing need within the Parish. The reference in Policy OA4-1 to CLPKP Policy 34, concerning affordable housing is only indirectly relevant to young persons, but it is equally applicable to all adults in housing need.

5.60 Concerning proposals for multi-generational living as a single household, the planning system does not require the grant of planning permission. As this would amount to occupation within planning use class C3(a), it is already permissible by reference to existing use rights. C3(a) covers:

*“use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.”*

5.61 Accordingly, there would be no town planning reason to seek planning permission for multi-generational living in relation to the use of existing dwellings, except perhaps in the unlikely event that an Article 4 Direction is applied by Chichester District Council to restrict the operation of the Use Classes Order in respect of C3 use within Westbourne.

5.62 For these reasons I recommend that the component of Policy OA -1 concerning housing for younger people, be deleted.

#### **Policy OA 4 - 2 GTTPS Plots / Pitches**

5.63 As indicated in the explanatory text to the WNP, it is evident that many residents of Westbourne have been concerned about the number of Gypsies, Travellers and Travelling Showpeople pitches/plots in the Parish. This in turn had led to the formulation of a land use planning policy in an attempt to exercise some local control over any potential expansion in the period to 2029. During the preparation of the WNP, it was apparent that there was a disagreement between the Parish and CDC as to the need for further GTTS plots and pitches. The Parish Council contended that the supply of plots and pitches had met identified need, whilst the Council’s position was that this was not yet the case.

5.64 The Regulation 16 reply from the District Council indicated that 57 pitches and 18 plots have been granted planning permission, but that the CLPKP sets out a requirement for 59 pitches and 18 plots for the period 2012-2027 in the District.

5.65 In advance of the Hearing, I requested that the matter might be resolved following a joint inspection of the existing facilities available in the Parish to determine whether the need for plots for travelling showpeople had been met. I was delighted to receive a Statement of Common Ground prepared by the Parish and CDC during the Hearing. This is attached at Appendix 2 to this Examination Report and confirms that there is a total of 38 gypsy and traveller pitches and 6 travelling show-person plots in the parish of Westbourne that have been granted planning permission. The site at Land West of Hopedene, Common Road also has permission (WE/14/03834/FUL) for a pitch for a site manager but it was not confirmed

- / whether the manager complies with the definition of gypsy and traveller and therefore the figure was shown for completeness but not included in the calculation. This analysis demonstrated that most of the applications have been implemented with exception of 14/01217/FUL and 16/01529/FUL. Details of the planning permission reference numbers, dates of decision and where the sites are located within the parish were provided. As a consequence of this work, Chichester District Council confirmed that there was a 7.5-year supply for Gypsy and traveller pitches and that the need for travelling show people within Westbourne had been met.
- 5.66 As to the overall provision, Table 3 of the Statement of Common Ground entitled “*CDC Parish and Town GTTS Pitches and Plots Supply - 19 October 2017*”, demonstrated that a total of 38 pitches and plots, being 25% of the total plots and pitches covering the entire District Council Area were provided in the Parish of Westbourne. This was the greatest absolute number of plots and pitches of any parish in Chichester District and represented the second highest density of plots and pitches in relation to resident population per head (1.91%), Funtingdon Parish being slightly greater at 2.13%, per head of population.
- 5.67 In preparing for the Hearing, the agenda indicated that DCLG publication “Planning policy for traveller sites”, August 2015, Policy C, “Sites in rural areas and the countryside” may offer further assistance in possibly re-formulating an appropriate policy covering the matters in the draft neighbourhood plan policy, OA4-2 GTTS Plots / Pitches. In addition, the SDNPA draft policy SD33 regarding Gypsies and Travellers and Travelling Showpeople was not at the time within an adopted plan and still subject to public consultation and Examination. The SDNPA, in its Regulation 16 response, suggested that paragraph 3 of the draft policy may offer a means of development management for the Westbourne NP, which at the time read as follows:
- “3. Development proposals to meet the needs of the Gypsy, Traveller and Travelling Showpeople community (as defined in Planning Policy for Traveller Sites (2015) or any subsequent policy) will be permitted where they:*
- a) Can demonstrate a local connection;*
  - b) Can demonstrate that there is no alternative available pitch which could be used in the locality;*
  - c) Do not result in sites being over-concentrated in any one location or disproportionate in size to nearby communities;*
  - d) Are capable of being provided with infrastructure such as power, water supply, foul water drainage and recycling/waste management without harm to the special qualities of the National Park;*
  - e) Provide sufficient amenity space for residents;*
  - f) Do not cause, and are not subject to, unacceptable harm to the amenities of neighbouring uses and occupiers;*

- /
- g) *Have a safe vehicular and pedestrian access from the public highway and adequate provision for parking, turning and safe maneuvering of vehicles within the site; and*

h) *Restrict any permanent built structures in rural locations to essential facilities.”*
- 5.68 It was clear at the Hearing that the Parish Council, represented by Lisa Jackson, would welcome a criteria-based policy similar to that proposed by the SDNPA and that the WNP submission draft Policy OA-42 might be relegated to explanatory text. It was also agreed at the Hearing that the SDLP suggested policy revision was acceptable, other than criterion d) which was amended, deleting the words, “*without harm to the special qualities of the National Park*”; to read:
- “d) Are capable of being provided with infrastructure such as power, water supply, foul water drainage and recycling/waste management.”
- 5.69 It should be noted that during the pause in the examination to facilitate further Habitats Regulation Assessment and Appropriate Assessment and Strategic Environmental Assessment, the SDLP examination was completed and the SDLP has been adopted. To meet the Basic Conditions test, policies within the WNP concerning development proposals in the SDLP designated area for Gypsies, Travellers and Travelling Showpeople (GTTS), must conform to (strategic) Policy SD33. The SDLP confirms that within the National Park designated area in the parish of Westbourne there is no identified need to provide sites for GTTS use over the life of the SDLP.
- 5.70 As the SDLP has been adopted and Policy SD33, 3(c) concerning the impact of infrastructure provision associated with GTTS site development in the National Park, requires such development not to harm the special qualities of the National Park. It would be reasonable in the light of the proximity to the National Park, that this policy element concerning GTTS development should apply within the rest of the neighbourhood area to protect the National Park from the impact of harmful infrastructure development.
- 5.71 There is no doubt that due to the variance in urban, suburban and rural characteristics of the parishes within Chichester District, it would be unrealistic for contextual reasons to expect all parishes to accept an equal, or even a pro-rata concentration of pitches and plots for Gypsy, Traveller and Travelling Showpeople. Nonetheless, the detailed quantitative assessment undertaken and presented in the Statement of Common Ground demonstrates that Westbourne has provided a comparative over-concentration of pitches and plots and given the 7.5-year land supply identified for this use, it would be unreasonable and unrealistic for Westbourne Parish to supply any additional GTTTS sites for the foreseeable future and possibly for the life of the WNP. Reflecting the approach in the recently adopted SDLP concerning GTTS development policy, a criteria-based policy, reflecting SDLP Policy SD33 would be entirely appropriate in the rest of the Westbourne Parish administrative area, in the light of the evidence supplied at the Hearing, with suitable explanatory text clarifying that the Parish has

- / already provided a disproportionate number of plots and pitches by reference to CDC's administrative area as a whole.
- 5.72 As a consequence of the time required to consider the WNP in the context of the changes in European environmental law and additional regulations, during this intervening period CDC has been preparing the evidence base for the forthcoming review of the local plan to 2035. I am aware that there is now further evidence, for example, relating to the needs of for Gypsy, Traveller and Travelling Showpeople, but in relation to the examination of WNP, given the information provided in support of the submission draft Plan and the information subsequently provided regarding this topic at the Hearing, it would not be helpful or appropriate to consider evidence for the emerging Local Plan in the examination of the WNP. To do so would be likely to trigger requests to re-open matters already considered earlier in the examination upon which conclusions and recommendations have already been reached.
- 5.73 Accordingly, I recommend that Policy OA 4-2 be amended as follows:

**Development proposals to meet the needs of the Gypsy, Traveller and Travelling Showpeople community (as defined in Planning Policy for Traveller Sites (2015) or any subsequent policy) will be permitted where they:**

- a) Can demonstrate a local connection;
- b) Can demonstrate that there is no alternative available pitch which could be used in the locality;
- c) Do not result in sites being over-concentrated in any one location or disproportionate in size to nearby communities;
- d) Are capable of being provided with infrastructure such as power, water supply, foul water drainage and recycling/waste management without harm to the special qualities of the National Park;
- e) Provide sufficient amenity space for residents;
- f) Do not cause, and are not subject to, unacceptable harm to the amenities of neighbouring uses and occupiers;
- g) Have a safe vehicular and pedestrian access from the public highway and adequate provision for parking, turning and safe maneuvering of vehicles within the site; and
- h) Restrict any permanent built structures in rural locations to essential facilities.

**Proposals for sites accommodating Travelling Showpeople should allow for a mixed-use yard with areas for the storage and maintenance of equipment.**

- 5.74 The explanatory text might be re-written as follows:

- / “At the time of the examination of the WNP, it was evident that the supply of plots/pitches for the identified need for this type of accommodation had already been exceeded for the WNP period within the Parish. Further provision of GTTS plots or pitches would be likely to erode the current community balance and would not be acceptable unless all of the criteria in Policy OA 4-2 are met.”

### **Policy OA 4 - 3 Housing for Older People**

- 5.75 The policy component seeking to support housing for the elderly is both positive and aspirational. “Older people” in need of housing within this element of the policy would presumably include people over retirement age, including the active, newly-retired through to the very frail elderly, whose housing needs can encompass accessible, adaptable general needs housing for those looking to downsize from family housing and the full range of retirement and specialised housing for those with support or care needs, falling within planning use classes C2 and C3 and relevant sub groups. It would be helpful to define the older people and the scope of the housing needs envisaged within the explanatory text. At present the draft policy simply defines the elderly as “55+” and without consideration of the spectrum of housing types that is included within the policy.
- 5.76 No objections to this policy element were raised during the Regulation 16 consultation.
- 5.77 To the extent that homeowners may wish to downsize, this would normally amount to the sale of their house and the purchase of a smaller dwelling. That process would not involve the intervention of the planning system. It is not clear the extent to which, “*...initiatives to assist older residents to downsize their homes to free up housing stock for younger residents where these are consistent with the other policies of the plan,*” could be town planning initiatives, other than to convert, or fragment single family homes into more dwellings through change of use and conversion to flats and maisonettes. Without further express clarification, such initiatives may not necessarily amount to town planning initiatives. Therefore, to avoid straying into non-planning policy areas, which would be outside the scope of land use planning controls and management, this element of proposed planning policy would need to be expressly defined in the policy. It also begs the question why the planning system should favour the elderly wishing to downsize, for example by a change of use to fragment housing to flats. This may equally be sought by other households, not simply the elderly. There would appear to be no clear town planning reason why the land use planning system should favour one group of households over another when seeking to undertake development; and that each proposal should be treated on its merits having regard to planning policy and the benefits of the proposal, without favouring a particular class of applicant.
- 5.78 Also, it would be unsatisfactory in terms of planning policy and doubtless contrary to human rights to limit “*.....freeing up housing stock for younger residents....*” There is no planning policy

- imperative that seeks such an approach as this would amount to an interference with the property market. Elderly vendors who choose to downsize would normally seek to secure the best value in the market for their property. This would be the rational approach, not least because housing is traditionally a household's most valuable asset. Often the motive of the elderly for downsizing will be to release equity from property to meet the cost of long term care and welfare. It would be unacceptable for the planning system to require the elderly to be disadvantaged financially by limiting the sale of their dwellings when downsizing to a particular group, such as young households. Most homeowners will naturally wish to expose their dwellings on sale to the entire market in their market area, to be certain that they optimise value on sale.
- 5.79 The components of the policy seeking to control multi-generational living have already been considered elsewhere in connection with this policy and for the same reasons, this element of the policy should be deleted.
- 5.80 Having regards to the reasons explained above, I therefore recommend that Policy OA-4 be amended as follows:

#### **Policy OA4: Community Balance**

~~Development proposals for any new dwellings must demonstrate that they provide an appropriate choice of homes to contribute towards meeting identified housing needs throughout the Parish and should be accompanied by a 'dwelling mix statement' submitted as part of any planning application to show how the proposal meets specific needs. This statement should provide details of how it meets local needs, including those of young people, local workers, small families, older residents (55+) and people with disabilities. Any proposal that results in the net increase in dwellings or pitches/plots must demonstrate that there will be a mixture of tenures throughout the area and not give rise to any areas of isolated groups of one tenure to ensure social integration.~~

#### ~~OA4-1 HOUSING FOR YOUNGER PEOPLE~~

~~Any new proposals for the provision of housing for younger households, by way of appropriate starter homes, affordable housing development, live/work and self-build initiatives will be considered in accordance with the NPPF and Policy 34 of the Chichester Local Plan: Key Policies and government guidelines. The Parish Council will give priority to provision of affordable housing in time for the next review of the NP. Proposals for multi-generational living in an existing single household that preserve amenity and comply with all other policies in the plan will be considered where they are secured through legal agreements to prevent separate occupation by unrelated households.~~

#### ~~OA4-12 GTTPS PLOTS/PITCHES~~

~~Applications for additional Gypsies, Travellers and Travelling Showpeople pitches/plots within the Neighbourhood Plan area will be resisted, as the supply for the identified need for this type of accommodation has already been exceeded for the plan period within the District, which has been disproportionately met by provision within Westbourne Parish. This is to ensure that the current balance between the various sectors of the local community will be retained; any further provision of GTTSP plots or pitches would erode the current mix and balance of tenures and would not be acceptable to the community. Given the lack of identified need, any new consent would be wholly exceptional and in this regard if deemed to meet the exceptional circumstances the proposal would need to pass the strict physical tests applied within the National Park for this type of development.~~

Development proposals to meet the needs of the Gypsy, Traveller and Travelling Showpeople community (as defined in Planning Policy for Traveller Sites (2015) or any subsequent policy) will be permitted where they:

- a) Can demonstrate a local connection;
- b) Can demonstrate that there is no alternative available pitch which could be used in the locality;
- c) Do not result in sites being over-concentrated in any one location or disproportionate in size to nearby communities;
- d) Are capable of being provided with infrastructure such as power, water supply, foul water drainage and recycling/waste management without harm to the special qualities of the National Park;
- e) Provide sufficient amenity space for residents;
- f) Do not cause, and are not subject to, unacceptable harm to the amenities of neighbouring uses and occupiers;
- g) Have a safe vehicular and pedestrian access from the public highway and adequate provision for parking, turning and safe manoeuvring of vehicles within the site; and
- h) Restrict any permanent built structures in rural locations to essential facilities.

Proposals for sites accommodating Travelling Showpeople should allow for a mixed-use yard with areas for the storage and maintenance of equipment.

#### **OA4-23 HOUSING FOR OLDER PEOPLE**

~~Any new Pp~~ Proposals for the provision of housing for older people that meet the wide range of their circumstances and lifestyles will be welcomed and considered in accordance with Government Planning Policy and guidance. ~~The Parish Council will support initiatives to assist older residents to downsize their homes to free up housing stock for younger residents where these are consistent with the other policies of the plan. Proposals for multi-generational living in an existing single household that preserve amenity and comply with all other policies in the plan will be considered where they are secured through legal agreements to prevent separate occupation by unrelated households~~

## Distinctiveness policies

5.81 These policies comprise:

Policy LD1: Local distinctiveness

Policy LD2: Important Views

Policy LD3: Heritage

Policy LD4: Local Gaps

### Policy LD1: Local distinctiveness

**All development in Westbourne Parish, whether new buildings, extensions or conversions, will be required to follow the policies set out in this Plan and the guidance set out in the Westbourne Village Design Statement.**

- 1 All development proposals must demonstrate how they will integrate into the existing surroundings and reflect the established vernacular of the Parish in terms of building styles and materials;**
- 2 The density of any new development should be in character with the immediate local surrounding area, respect the rural nature of the Parish and provide a continuum of the spaciousness, avoiding uniform designs and plots;**
- 3 All development should have well-defined public and private spaces and enclosure should reflect the local rural character of the area with trees and hedges;**
- 4 All new development must demonstrate how it accommodates parking provision within the site so as not to exacerbate the existing situation.**

5.82 Support for Policy LD1 can be found in the NPPF at paragraphs 56-61 inclusive, concerned with achieving good design through good planning. Policy LD1 seeks to achieve new development which will function well whilst achieving high quality and inclusive design and respecting the rural character of the village and reinforcing the sense of place, responding to the identity of local surroundings.

5.83 During the examination of the WNP, the National Design Guide was published in October 2019 and revised in January 2021. The Guide supports the current version of the NPPF (2019). Paragraph 8 of the National Design Guide explains that the underlying purpose for design quality and the quality of new development at all scales is to create well-designed and well-built places that benefit people and communities. The thrust of Policy LD1 is consistent with that ambition.

5.84 The CLPKP at paragraph 10.11 explains that good design is crucial to achieving attractive and durable places to live. The Local Plan encourages high quality design and development of new buildings, spaces and their setting in the built and rural landscape, including the development of green spaces. Policy LD1 conforms variously to the relevant CLPKP policies being policies 33, 40 and 45, in seeking to achieve good and sustainable design and construction.

- 5.85 This policy was supported by Historic England in its Regulation 16 reply which was considered together with the Village Design Statement and Conservation Area Character Appraisal and Management Plan, to satisfy the requirement of paragraph 58 of the National Planning Policy Framework for neighbourhood plans to develop robust and comprehensive policies that set out the quality of development expected for the area.
- 5.86 The Regulation 16 response from Gladman pointed to the status of the emerging Village Design Statement (VDS), seeking to elevate to the status of this design statement through Policy LD1 of the WNP by requiring compliance with the VDS. As explained earlier in the examination report, the VDS has not been taken forward over recent years as anticipated, although in 2021 is now expected to be advanced through joint working by the WNP Steering Group and officers of CDC. The recommended amendments suggested in this report concerning the weight to be given to the adopted Village Design Statement in decision making where relevant, should overcome Gladman’s concerns if the WNP is made, irrespective as to whether the existing adopted VDS enures for the life of the Plan, or if it is superseded by a revised VDS in the future.
- 5.87 Chichester District Council in its consideration of this draft policy has observed that its applicability should be to “new” development, for which planning permission is sought. In addition, the District Council has indicated that the fourth element of the draft policy relating to parking provision should not apply to extensions. I also agree with the observations and reasoning of the District Council concerning Policy LD 1. To be compatible with Policy 40 of the CLPKP and sustainable design and construction matters, the fourth bullet point would benefit from a revision encouraging more sustainable means of travel which at present is absent from this policy but which, if, could assist in promoting more sustainable means of travel, reducing parking demand within the village, in addition to reducing other harmful impacts associated with traffic including noise and air quality impairment.
- 5.88 Taking these points into consideration, I recommend that Policy LD1 be amended as follows:

**Policy LD1: Local distinctiveness**

**All new development proposals in Westbourne Parish, ~~whether new buildings, extensions or conversions,~~ will be required to follow the policies set out in this Plan and have regard to the guidance set out in the Westbourne Village Design Statement.**

- 1 All new development proposals must demonstrate how they will integrate into the existing surroundings and reflect the established vernacular of the Parish in terms of building styles and materials;**
- 2 The density of ~~any~~ new development should be in character with the immediate local surrounding area, respect the rural nature of the Parish and ~~provide a continuum of the spaciousness,~~ avoiding uniform designs ~~and plots~~;**

- 3 All **new** development should have well-defined public and private spaces and enclosure should reflect the local rural character of the area. **Appropriate planting** with trees and hedges **will be encouraged**;
- 4 All new development must demonstrate how **sustainable means of travel have been considered and where feasible incorporated to mitigate the impact of parking within Westbourne. ~~it accommodates parking provision within the site so as not to exacerbate the existing situation.~~**

### Policy LD2: Important Views

**Any development must maintain or enhance the local character of the landscape and not cause unacceptable loss or diminution of significant views (identified on the Important Views map Fig 8, in para 4.9 and in the VDS) that currently provide open aspects or views from the village centre or other open spaces. Except where views are entirely localised (that is where all the views are contained within the site itself), all development proposals must be accompanied by a Landscape and Visual Impact Assessment and must demonstrate low or negligible impact on landscape views, in particular on those local views identified in the Plan.**

**Where development has a harmful impact on landscape character, identified views or open views, the development will not be permitted unless the proposal can demonstrate that mitigation can be achieved on land within the applicant's control and will reduce the impact to an acceptable level.**

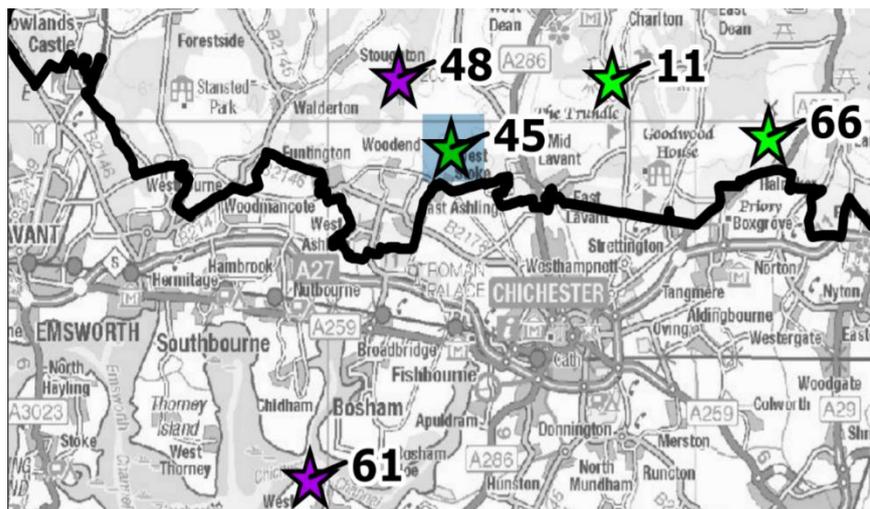
- 5.89 Policy LD2 broadly conforms to the NPPF (2012) by reference to paragraphs 69, 73 and 75, although protected views are not specifically covered in either the original NPPF or subsequent revisions. Within the CLPKP, Policy 48 which seeks to protect the natural environment advises that planning permission will be granted where it can be demonstrated that there is no adverse impact on:
- 1) The openness of the views in and around the coast, designated environmental areas and the setting of the South Downs National Park; and the tranquil and rural character of the area;
  2. Development recognises distinctive local landscape character and sensitively contributes to its setting and quality; and
  3. Proposals respect and enhance the landscape character of the surrounding area and site, and public amenity through detailed design.
- 5.90 The policy guidance within the CLPKP concerning important views is limited to protecting views of the cathedral spire and the long views from Graylingwell Hospital over the dip slope of the Downs to the coastal plain and again including views of the cathedral spire.

5/91 During the extended examination period, the South Downs Local Plan (2014-2033), (SDLP) was adopted. The SDLP covers the north-eastern part of the designated neighbourhood area of Westbourne and its policies are relevant for development management purposes for proposals within the National Park. In relation to the WNP to meet the basic conditions test, the WNP policies must conform to the strategic policies of the SDNPLP within the National Park. The relevant strategic SDLP policy to which WNP Policy LD2 must conform is Strategic Policy SD6: Safeguarding Views. This policy seeks to conserve and enhance key views and views of key landmarks within the National Park. These are identified as the following view types and patterns identified and defined in the Viewshed Characterisation & Analysis Study<sup>13</sup>. SDLP Policy SD6a) identifies these types as:

- a) Landmark views to and from viewpoints and tourism and recreational destinations;
- b) Views from publicly accessible areas which are within, to and from settlements which contribute to the viewers’ enjoyment of the National Park;
- c) Views from public rights of way, open access land and other publicly accessible areas; and
- d) Views which include or otherwise relate to specific features relevant to the National Park and its special qualities.

These representative view types are identified in the extract from the South Downs National Park Viewshed Characterisation & Analysis below. It will be noted that these viewpoints are not confined to the National Park, but none are located within the designated Westbourne Neighbourhood Plan area.

*Extract from Fig 2.1 Representative Viewpoints, South Downs National Park Viewshed Characterisation & Analysis*



**Green stars** – identify representative viewpoints.

**Purple stars** – identify representative viewpoint and photograph monitoring point.

<sup>13</sup> South Downs National Park: View Characterisation and Analysis Final Report. Prepared by LUC on behalf of the South Downs National Park Authority, November 2015

- 5.92 The Important Views Map (Figure 8) in the submission version of the WNP is a replica of the Westbourne Important Views Map shown in the draft Village Design Statement, Submission Version, 2017. This in turn is derived from the schedule of “Glimpses /Passive Views” identified on page 8 of the adopted VDS prepared in April 2000. This earlier version lacks a map base but remains extant as a material planning consideration. The VDS (2000) explains in particular that the “cherished views” from Monk’s Hill should be protected and that any new development nearby should be limited to the height and scale of existing development. The VDS also explains that the then wish of the villagers was that the glimpses and passive views listed on page 8 of the statement should be “defended”.
- 5.93 The Regulation 16 replies relating to this policy were few. No representations concerning Policy LD2 were advanced by the SDNPA. Chichester District Council noted that in paragraph 4.8.3 the policy should refer to ‘New’ rather than ‘Any’ development, which I agree would be necessary if the WNP were to include this policy. Gladman and Taylor Wimpey raised objections to this policy. Whilst not offering specific evidence itself, the objection raised by Gladman concerns the quality of the evidence used to justify the inclusion of each view within this policy. The concern of Taylor Wimpey relates specifically to view 9 from Foxbury Lane towards the cemetery, across site allocation SS3: Land adjacent to Chantry Hall, Foxbury Lane. This land located to the east of Chantry Hall is allocated for 6 dwellings, a car park and open space for development in the period 2017-2020.
- 5.94 In undertaking this examination, I made unaccompanied site inspections to view each site to attempt to appreciate the importance of the views advanced in this policy and supported in document 20, Landscape and Biodiversity, Westbourne Important Views Assessment. There is little doubt that there are many fine views and glimpses of the South Downs and coastal plain that may be appreciated from public highways and footpaths within the parish. I have no doubt that a number of many of these are indeed cherished by residents and visitors to Westbourne. Views 7, 8, 10, 13, 14, 15 and 16 are all long views from within and across open countryside within the SDNPA. Except for the views 2 and 3, which include significant heritage assets within the conservation area, other views are of land beyond the settlement boundary.
- 5.95 The Westbourne Important Views Assessment (Document 20 to the Evidence Base) explains that the points identified as important views were based on the initial version of the VDS. Document 20 then notes that during early work on the Westbourne Neighbourhood Plan, the community agreed that the Village Design Statement should be reviewed and updated to be read alongside the Westbourne Neighbourhood Plan. As part of this re-assessment, Document 20 advises that the WNPSG reviewed all the views which were included in the first edition of the VDS and considered additional views. I understand from Document 20 that the VDS was edited and subjected to the same consultation process as for Policy LD2 proposed in the WNP.

- 5.96 Guidance is provided by Planning Aid and published by the RTP14 in preparing evidence to help justify neighbourhood plan policies. This is in order to help bodies preparing neighbourhood plans to provide appropriate proportionate and robust evidence. Having regard to this advice, I consider that if a Qualifying Body is seeking to identify and define important views within an area, it will need to carry out an appraisal of options and a robust assessment of individual views against clearly identified criteria. It would not be sufficient to include views solely based upon public opinion. Consequently, I have concerns about the significance of a number of these views to the extent that they would justify the protection that they would be afforded if included within draft Policy LD2. During the final fact checking of the examination report in February 2021, my attention was drawn to the National Design Guide<sup>15</sup> paragraph 53, by Lisa Jackson on behalf of the Parish Council concerning views and vistas and the contribution that these, together with other local spatial characteristics, may contribute towards define local distinctiveness and that these influences may inform the design of new development. I have no doubt that the elements of a place or local places listed in paragraph 53 may inform and influence good design in new development. Indeed, there is some circularity in the contribution that the factors listed in paragraph 53 make in relation to delivering good design in a locality. Policy LD2 appears to be less about how landscape features, including views and vistas might contribute to design quality, but rather more about how the protection of views should demonstrate that there should be no harmful impact on landscape character, identified views or open views. This policy states that *“...development will not be permitted unless the proposal can demonstrate that mitigation can be achieved on land within the applicant’s control and will reduce the impact to an acceptable level.”* The level that the policy indicates would be acceptable is said to be a *“low or negligible impact on landscape views, in particular on those local views identified in the Plan”*.
- 5.97 The views identified in the WNP are extensive and considerably greater in scope than those of a strategic nature identified in either the SDLP or CLPKP. My concern is that in themselves, these views have not been rigorously evaluated. For example, there would also be a potential contradiction in including view 9 within this policy where site allocation SS3, anticipates imminent development for housing on land in the foreground of this viewpoint. The Westbourne Important Views Assessment states that, *“... views from here are across equestrian fields (previously agricultural fields) to the Cemetery”*, and *“Although the Westbourne Neighbourhood Plan has designated an area close to here for development, the Parish Council has taken into account the residents’ wishes that the open views to the Cemetery and the surrounding countryside along one of the main approaches to Westbourne Village are so significant that they should be retained”*. My

<sup>14</sup> “How to gather and use evidence” Planning Aid England / Royal Town Planning Institute – undated

[https://www.ourneighbourhoodplanning.org.uk/storage/resources/documents/How\\_to\\_gather\\_and\\_use\\_evidence.pdf](https://www.ourneighbourhoodplanning.org.uk/storage/resources/documents/How_to_gather_and_use_evidence.pdf)

<sup>15</sup> National Design Guide, Ministry of Housing, Communities and Local Government, January 2021

- / experience when trying to appreciate this viewpoint from Foxbury Lane during an unaccompanied visit was rather different, the view being obstructed by an unmanaged dense, tall and overgrown hedgerow, including sheet metal, that had I suspect, for some years prevented any view of the cemetery.
- 5.98 There is no explicit support towards protecting views within the NPPF (2012) nor for that matter in the current NPPF. There is limited protection provided in the extant VDS. As there is currently renewed impetus to update the VDS and take this forward for adoption as non-statutory guidance, the opportunity exists for a more robust and objective views assessment to be made of the long views which might overcome my reservations regarding evidence expressed in this report. I therefore remain of the opinion that the most appropriate way of dealing with draft Policy LD2 is to delete this from the WNP. If the WNP is made, identified important views would still be afforded protection under the VDS (2000). The identified important views would remain as a material consideration in the determination of planning applications.

### Policy LD3: Heritage

1. **The historic environment of the parish and heritage assets (both designated and non-designated) will be conserved or enhanced.**
  2. **All new development should conserve or enhance the historic character and appearance of the Conservation Area and applications will explain how the design of proposals have sought to retain or enhance positive features of the area identified in the District Council's Conservation Area Appraisal and Management Plan or address issues identified in that document.**
  3. **Development proposals that affect designated and non- designated heritage assets must conserve or enhance the historic significance of the asset and its setting and must explain how the proposals comply with the VDS.**
  4. **Archaeological investigation of sites where new developments or improvements are planned will be required in areas where there is high archaeological potential. Following a desk-based assessment, appropriate archaeological investigation must be carried out, where appropriate, prior to construction of new developments. Any reports should be made available for public viewing and be submitted to the County Council for inclusion in the Historic Environment Record.**
- 5.99 Policy LD3 conforms to NPPF (2012) Chapter 12, Conserving and enhancing the historic environment and in particular the advice contained in paragraphs 126, 128, 129 and 135. The policy also complies with CLPKP Policy 47 and acknowledges the importance of non-designated heritage assets not protected in the Local Plan. In connection with the SDLP adopted on 2<sup>nd</sup> July 2019, WNP draft Policy LD3 conforms to the following strategic SDLP policies; SD12 – Historic Environment; SD13 – Listed Buildings; SD15 – Conservation Areas;

- / and SD16 – Archaeology.
- 5.100 During the Regulation 16 consultation period support in favour of the policy was provided by Historic England which advised,
- “We particularly welcome and support section 4.10 and Policy LD3, although we would prefer “.....special interest, character and appearance of the Conservation Area or the significance of other heritage assets”– the “special interest” being the reason for its designation. However, for clarity, in our opinion, the policy still meets the basic conditions.”*
- 5.101 Representations were also received from Gladman referring to paragraphs 132 to 134 of the NPPF where the more important the designated asset the greater the weight that should be attached to it when considering designated and non-designated heritage assets. The representation from Gladman also referred to paragraph 135 of the NPPF concerning non-designated heritage assets and the policy test that should be applied in reaching a balanced judgment having regard to the scale of any likely harm and the significance of the asset.
- 5.102 Chichester District Council suggested amendments to the first and second bullet points for accuracy and to better reflect the wording in the Planning (Listed Buildings and Conservation Areas) Act 1990. In addition, CDC’s Regulation 16 response sought a revision of the fourth bullet point in the draft policy for reasons of accuracy as follows:
- “Archaeological investigation of sites where new developments or improvements are planned proposed will be required in areas where there is high archaeological potential. Following a desk-based assessment, appropriate archaeological investigation must be carried out, where appropriate, prior to construction. of new developments. Any reports should be made available for public viewing and be submitted to the District Council for inclusion in the Historic Environment Record.”*
- 5.103 Having regard to these representations, I recommend that Policy LD3 be amended as follows:

#### **Policy LD3 – Heritage**

1. The historic environment of the parish and **its** heritage assets (both designated and non-designated) will be **preserved** ~~conserved~~ or enhanced.
2. All new development should **preserve** ~~conserve~~ or enhance the **special interest** ~~historic~~ character and appearance of the Conservation Area **or the significance of other heritage assets. Planning and** applications will explain how the design of proposals have sought to retain or enhance positive features of the area identified in the District Council’s Conservation Area Appraisal and Management Plan or address issues identified in that document.
3. Development proposals that affect designated and non-designated heritage assets

- must **demonstrate how proposals will preserve** ~~conserve~~ or enhance the historic significance of the asset and its setting **and must explain how the proposals comply with the VDS, proportionate to the assets' importance sufficient to indicate the potential impact of the proposal on their significance.**
4. Archaeological investigation of sites where new developments or improvements are **proposed** ~~planned~~ will be required in areas where there is high archaeological potential. Following a desk-based assessment, appropriate archaeological investigation must be carried out, where appropriate, prior to construction of new developments. Any reports should be made available for public viewing and be submitted to the County Council for inclusion in the Historic Environment Record.
- 5.104 These recommended alterations will appropriately encompass the suggestions of Historic England, Chichester District Council and Gladman.

#### Policy LD4: Local Gaps

**In addition to the tests in policy OA1 any development proposed within the local gaps identified in Figure 11 will need to demonstrate compliance with the following criteria, for both inter and intra gaps:**

- 1. The development must not diminish the integrity of the local gap by visually and physically reducing the distinct break between settlements;**
  - 2. The proposal should be accompanied by a landscape and visual impact assessment to demonstrate no significant diminution in openness and views in the local gap;**
  - 3. Proposals should be accompanied by a mitigation plan showing how the local gap can be enhanced by planting and other amelioration or mitigation;**
  - 4. Important trees and hedgerows within the local gaps should be retained as part of any development proposal;**
  - 5. Positive community uses, consistent with countryside activities, of the open areas in the local gaps will be supported where these can enhance visual impact and biodiversity and enhance the range of facilities available.**
- 5.106 Within the NPPF there is no specific guidance supporting gaps between settlements other than that contained within Green Belt policy related to preventing coalescence and maintaining openness. Section 11 of the NPPF on protecting the natural environment has some relevance. The local gaps policy, Policy LD4, broadly conforms to CLPKP Policy 48 (5) where in addition to other criteria, planning permission within the District will be granted where the “...*individual identity of settlements, actual or perceived, is maintained and the integrity of predominantly open and undeveloped land between settlements is not undermined*”.

5.107 The policy intent which the WNP is seeking to achieve through this policy is clearly defined in paragraphs 4.11.8 and 4.11.9 where the intention of this policy is said to be:

*“.....to prevent firstly the coalescence of Westbourne, Woodmancote and Aldsworth, (the intra gaps), and secondly the coalescence of other external attached Parishes and urban areas that abut the Westbourne Parish boundary (the inter gaps) to avoid in particular coalescence with the Borough of Havant and coalescence with Southbourne Parish. These local gaps are an important feature of the village character and distinctiveness and need to be protected.”*

5.108 At the Hearing it was established that the purpose of the intra and inter gaps was identical in preventing coalescence between settlements and that this accounted for the proposed policy content for gap types being identical.

5.109 I have some sympathy with the views expressed by Gladman on Policy LD4 in this firm’s Regulation 16 comments to the extent that gaps between settlements are strategic in nature and would therefore be expected to be defined within Local Plans, if they were necessary. There is also some confusion as to the drawing of the boundaries for the gaps and the land that would be included and as identified by the representations of CDC, there is a lack of clarity over the numbering system and relevance of view locations. For example, on Figure 11 in the WNP, the residential site allocation at Monk’s Hill is excluded from the neighbouring inter-gap as might be expected, whilst the residential site allocation at Foxbury Lane is clearly within the intra-gap between Westbourne and Woodmancote. It would be a simple matter to revise the boundaries, but setting aside the strategic nature of the policy, I am not convinced that to protect the countryside from encroachment by built development and the threat of coalescence of settlements, that this policy is necessary. The reason for this observation is that within the Chichester District Council area there has been a long-established system of containing urban development within the existing village settlement structure through Policy BE1 of the Chichester District Local Plan, adopted April 1999, supplemented by inset maps defining the settlement boundaries. This approach has been carried forward in the CLPKP in the first two policies of the Local Plan. Also, within the WNP, Policy OA1 defines the settlement boundary for Westbourne stating:

**“Policy OA1: Sustainable Development**

- 1 Within the Settlement Boundary, as shown in Figure 5, there is a presumption in favour of sustainable development that will apply to proposals that meet all the policies of this plan.**
- 2 Outside the Settlement Boundary, development proposals will not normally be considered either appropriate or sustainable unless:**
  - (i) they comply with all other policy requirements of the development plan; or**
  - (ii) it is sustainable development where the benefits demonstrably outweigh the harms,**

- and is of a form or type that could not reasonably be located within the Settlement Boundary; or  
 (iii) they are rural exception sites to meet local need.....”

- 5.110 I further note that support was given to this policy by Havant Borough Council (HBC), helpfully drawing attention to the woodland area north of Inter Gap 1 and in close proximity to the Hampshire border and Southleigh Forest. The Regulation 16 comment from HBC explained that previous bat surveys had found that Bechstein’s Bat (*Myotis bechsteinii*) inhabits the former Forest of Bere woodlands in this area and therefore HBC supported protection of this woodland area from development which would safeguard the habitat for this rare protected species. It is apparent that these bats and other flora and fauna in this locality and elsewhere in the parish would, together with their habitat, be adequately protected under the biodiversity policies BD1 and BD2 in the WNP. The supporting statement in the WNP relating to WNP policies BD1 and BD2 indicate at paragraphs 4.12.7 - 8 that the natural habitat of bats has been declining for a century and that bat roosts and commuting routes are susceptible to building development. The supporting statement recognises that proposed sites with these networks are not necessarily precluded from development, but the features of the network must be preserved and enhanced if the site is developed and in particular lighting will need to consider and be sympathetic to bats. This would indicate that appropriate mitigation of likely impacts could suffice, subject to significance assessed through appropriate survey and analysis may be sufficient to enable sustainable development to be undertaken, in connection with, for example, Site SS1.
- 5.111 In considering the material in support of this policy and having regard to the Regulation 16 representations, my conclusion is that the local gaps policy is simply not required to prevent coalescence, given the protection provided under CLPKP Policy 48 (5), CLPKP Policy 1, CLPKP 2 and WNP Policy OA1. To the extent that development proposals may be advanced in the proposed local gaps in LD4, they would be considered under the provisions of Policy OA1 – 3, (as amended), if the Plan were to be made.
- 5.112 For the reasons explained above and to avoid unnecessary duplication, I recommend that draft WNP Policy LD4 should be deleted.

#### Policy BD1: Biodiversity Opportunity Area and SSCI Policy

**Within the Biodiversity Opportunity Area or a Site of Nature Conservation Importance, see figure 12, Proposals must demonstrate how they improve the biodiversity of the site and be accompanied by a management plan to show how they can maintain and enhance the biodiversity opportunity over time.**

- 5.113 This policy reflects the guidance in the NPPF at paragraphs 117 and 118 concerning biodiversity

- / protection and enhancement when considering planning applications. It also conforms to the guidance in CLPKP Policies 48 and 49 concerning the natural environment and biodiversity respectively. This policy also conforms with Core Policy SD2: Ecosystem Services, in the adopted SDLP concerning relevant development within the National Park.
- 5.114 No Regulation 16 consultation comments were received in respect of this policy. I am content that this policy will contribute towards the achievement of sustainable development in the parish and propose no amendment to it.

Policy BD 2: Natural Environment Policy, see figure 12.

**In order to promote the opportunities for biodiversity in the Westbourne Neighbourhood Plan area, Biodiversity Corridors are identified to recognise the establishment of coherent ecological networks and offer protection to the significant number of species of flora and fauna to be found there and to allow more resilience of the physical network against current and future pressures and opportunities for species within. Proposals must demonstrate how they provide net gains to the habitats of the identified corridors and how the protection, enhancement and management of the biodiversity of the site can contribute to the resilience of the wider ecological network and will be accompanied by a management plan to demonstrate the resilience of the biodiversity opportunity over time.**

- 5.115 This policy reflects the guidance in the NPPF at paragraphs 117 and 118 concerning biodiversity protection and enhancement when considering planning applications. It also conforms to the guidance in CLPKP Policies 48 and 49 concerning the natural environment and biodiversity respectively. Also, Policy BD 2 conforms to SDLP Policy SD9: Biodiversity and Geodiversity in supporting habitat and commuting routes, incorporate opportunities for net gains in biodiversity and protecting and supporting the recovery of rare, notable and priority species.
- 5.116 The only Regulation 16 consultation comment in respect of this policy was made by CDC indicating that if the policy was seeking to protect the corridors this should be explicit within the policy.
- 5.117 In relation to Figure 12, I suggest that this is re-named: “Figure 12 Biodiversity Corridors & Ecological Networks Map” on page 1 in the listing of the various maps and diagrams in the WNP and in the body of the neighbourhood plan at page 36 for clarity and in order to complement the text within Policy BD2.
- 5.118 I have re-drafted the policy for clarity and simplicity. At page 36, of the Submission draft version, Figure 12 is entitled, “*Westbourne Existing Biodiversity & Ecological Networks Map*”. Since Figure 12 makes it clear that the map reflects **existing** biodiversity and ecological

networks, these are necessarily already established. Therefore, the policy text should reflect this position. In redrafting the policy, I have included the intention to protect these corridors and networks as identified by CDC. I recommend that Policy BD2 be amended as follows:

5.119 **Policy BD 2: Natural Environment Policy, ~~see figure 12~~**

**In order to promote the opportunities for biodiversity in the Westbourne Neighbourhood Plan area, Biodiversity Corridors and existing ecological networks are identified in Figure 12. ~~to recognise the establishment of coherent ecological networks and~~ These offer protection to the significant number of species of flora and fauna to be found there. ~~and To protect and enhance the allow more~~ resilience of these corridors and ~~physical networks against current and future pressures and opportunities~~ for species within, ~~pp~~Proposals must be accompanied by a management plan to demonstrate:**

- i) how they will provide net gains to the habitats of the identified corridors; and**
- ii) how the protection, enhancement and management of the biodiversity of the site will ~~can~~ contribute to the resilience of the wider ecological network. ~~and will be accompanied by a management plan to demonstrate the resilience of the biodiversity opportunity over time.~~**

Policy LGS1: Cemetery Green Space

The site identified in Figure 13 is designated as local green space. The area of the Cemetery and its Heritage setting is very important to Westbourne residents, to the families whose loved ones have been laid to rest there and to visitors to the area and is classified in Chichester District Council’s Historic Environment Register as a non-designated heritage asset<sup>16</sup>.

5.121 Policy LGS1 conforms in general terms with paragraphs 76 and 77 of the NPPF which provides guidance pertaining to Local Green Space (LGS). Paragraph 77 of the NPPF advises that LGS designation should only be used where the following criteria are met:

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

5.122 In relation to the CLPKP, there are no LGS policies as such, but Policy 52, (Green Infrastructure) is similar in its intent.

<sup>16</sup> <http://www.chichester.gov.uk/article/25592/Historic-Environment-Record-HER>

5/123 At the Hearing on 25<sup>th</sup> October 2017, this policy was discussed to assist me in understanding to what extent the land beyond the boundary of the cemetery and proposed for inclusion in the Plan as Local Green Space, hold a particular local significance. In addition, prior to the Hearing, I was not clear how the relevant land would be owned and managed if it were to be designated as LGS. Taylor Wimpey objected to the LGS proposal in their Regulation 16 comments as their landholding fronting Foxbury Lane and Cemetery Road (shown in Figure 2 below) includes the field comprising the western part of the land proposed to form part of the Local Green Space between the cemetery and the land allocated for housing fronting as indicated in draft Policy SS3: Land adjacent to Chantry Hall, Foxbury Lane.

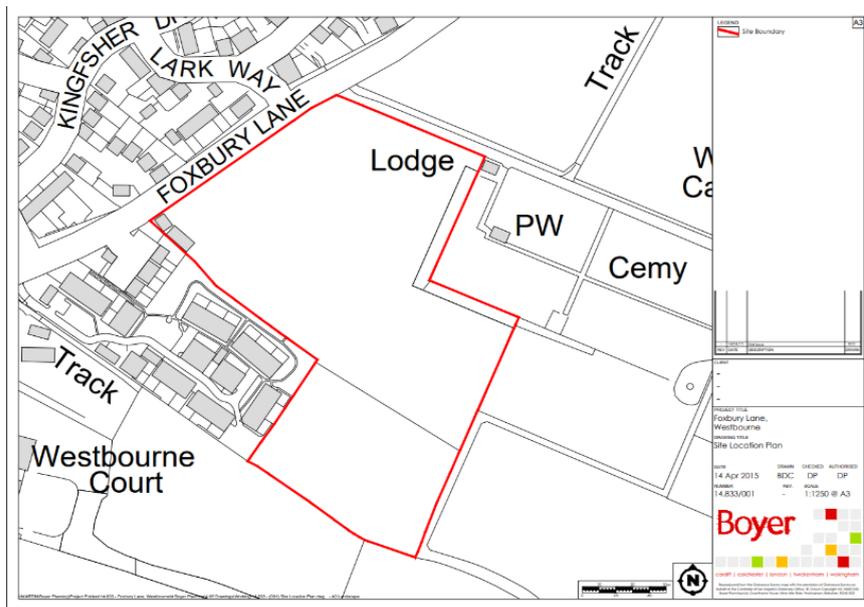


Figure 2 - Land within the control of Taylor Wimpey

5.124 I agree that the cemetery meets the tests in NPPF (2012) at paragraph 77. I did not initially subscribe to this view but am now satisfied that this is the case and that the land identified warrants inclusion as LGS, having regard to the observations of the Inspector in relation to the previous appeal decision<sup>17</sup> who recognised a need not to erode the open space that separates the cemetery from the village and restrict views towards the cemetery from Foxbury Lane, where, at the time of that planning inquiry, glimpses were possible both through and above the roadside hedgerow. The Inspector found that the proposed development on the Chantry Farm site would adversely affect the setting of the cemetery. To protect the longer-term setting of the cemetery, I recommend that the cemetery and the related land to the west and south as shown in the submission draft plan should be designated as Local Green Space. The term Local Green Space should be treated as a proper noun so that Policy LGS1 would then read as follows:

<sup>17</sup> APP/L3815/A/13/2205297 Chantry Farm, Foxbury Lane, Westbourne, Emsworth, West Sussex PO10 8FE

**Policy LGS1: Cemetery Green Space**

**The site identified in Figure 13 is designated as Local Green Space. The area of the Cemetery and its Heritage setting is very important to Westbourne residents, to the families whose loved ones have been laid to rest there and to visitors to the area and is classified in Chichester District Council’s Historic Environment Register as a non-designated heritage asset.**

- 5.125 It will not be necessary to revise Figure 13 to define the extent of the Local Green Space as I had initially considered appropriate, as I explain in considering Policy SS3 later in this examination report following the fact checking review. For avoidance of doubt, I am content that the LGS boundary should be as identified in the submission version of the WNP.

**Westbourne site-specific policies**

- 5.126 The WNP explains the method and rationale for allocating the housing sites and the effect on the revised approach following the appeal decision to allow housing development at Long Copse (Site SS2). As the three site allocations have been prepared to meet the objective of together delivering the objectively assessed housing need within the CLPKP, Policy 5, I consider the appropriateness of these draft policies together in relation to meeting the Basic Conditions test.
- 5.127 The three allocated sites comply with NPPF paragraphs 50 and 58 respectively ensuring choice in housing supply to meet local need and good design respectively. All three housing allocations are in sustainable locations to the extent that they avoid the potential for increasing flood risk or being flooded. Also, the three sites conform to the requirement in the NPPF at paragraph 173 ensuring viability and deliverability; indeed, the Long Copse Lane site has already been developed.
- 5.128 As to meeting CLPKP housing policy, the housing allocations in total meet Policy 5 by allocating small scale housing sites within Westbourne to meet the identified specific needs of local communities in accordance with the indicative parish housing numbers, in the case of Westbourne being 25 dwellings to 2029. Policies SS1 – SS3 also conform to CLPKP Policy 33, which sets out the criteria to be met by new residential development within the plan area, as follows:
1. Proposals meet the highest standards of design;
  2. Adequate infrastructure and provision for its future maintenance is provided;
  3. Proposals provide for high quality linkage direct from the development to the broadband network;
  4. The proposal provides a high-quality living environment in keeping with the

- /
- character of the surrounding area and its setting in the landscape;
  - 5. The scheme provides an appropriate density of development. This will be determined by its immediate context, on-site constraints, the type of development proposed and the need to provide an appropriate mix of dwellings;
  - 6. The proposal respects and where possible enhances the character of the surrounding area and site, its setting in terms of its proportion, form, massing, siting, layout, density, height, size, scale, neighbouring and public amenity and detailed design; and
  - 7. The proposal has taken into account the need to promote public safety and deter crime and disorder through careful layout, design and the use of Secured by Design principles and standards.

5.129 Policies SS1 - SS3 broadly conform to the criteria in Policy 33, although I consider that the illustrative layouts provided for sites SS1 and SS3 are at the lowest number of dwellings that might be considered acceptable having regard to gross development area of these two sites. Paragraph 7.28 of the CLPKP explanatory memorandum advises that:

*“.....Developments of less than 6 dwellings will not count against the parish numbers as they are already taken into consideration in the Small Sites Windfall Allowance (see paragraph 7.11).”*

Therefore, Policies SS1 and SS3 should include a minimum delivery of 6 dwellings for Sites SS1 and SS3 in order that the expectations of Policy 5 are met over the Plan period.

### Policy SS1: Proposed development management criteria

5.130 Concerning the criteria set out in Policy SS1, I accept that it would be appropriate for site development to be guided by the design principles in the VDS (2000) and this is plainly a material planning consideration adopted as Supplementary Planning Guidance by Chichester District Council. I return to this point in considering the second criterion. Notwithstanding that Monk’s Farmhouse, Monk’s Hill, is listed Grade II (List entry Number: 1026134), I am not convinced due to its location on rising ground to the north-west of site SS1, that a landscape buffer is required to maintain an appropriate setting for the farmhouse and curtilage buildings having regard to the disposition of the farm buildings on the site, distance from the boundary with site SS1 (see map extract) and the listing citation, which refers solely to the farmhouse as follows:

*“WESTBOURNE MONK'S HILL SU 70 NE 11/490 Monk's Farmhouse - - II  
L-shaped early C19 house. Two storeys. Three windows. Stuccoed. Eaves cornice. Hipped slate roof. Glazing bars intact. Doorway with flat hood on brackets.”*

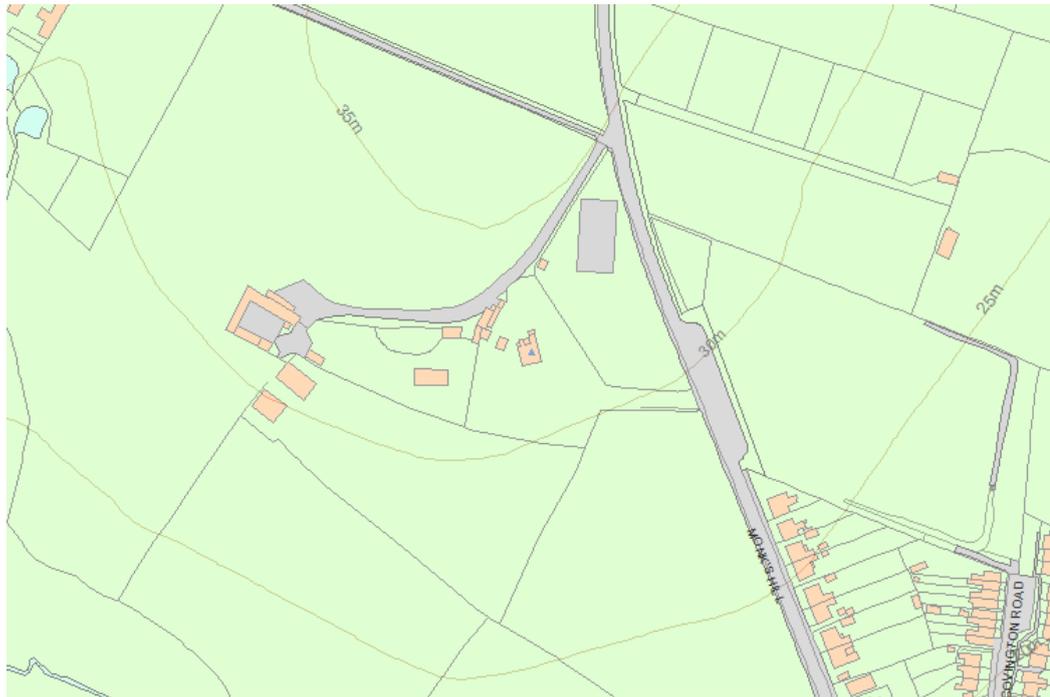


Figure 4 Map extract – Listing entry - MONK'S FARMHOUSE - List entry Number: 1026134

5.131 I therefore recommend that the first criterion be amended to read:

**“New development shall have regard to the principles contained in the Westbourne Village Design Statement;”**

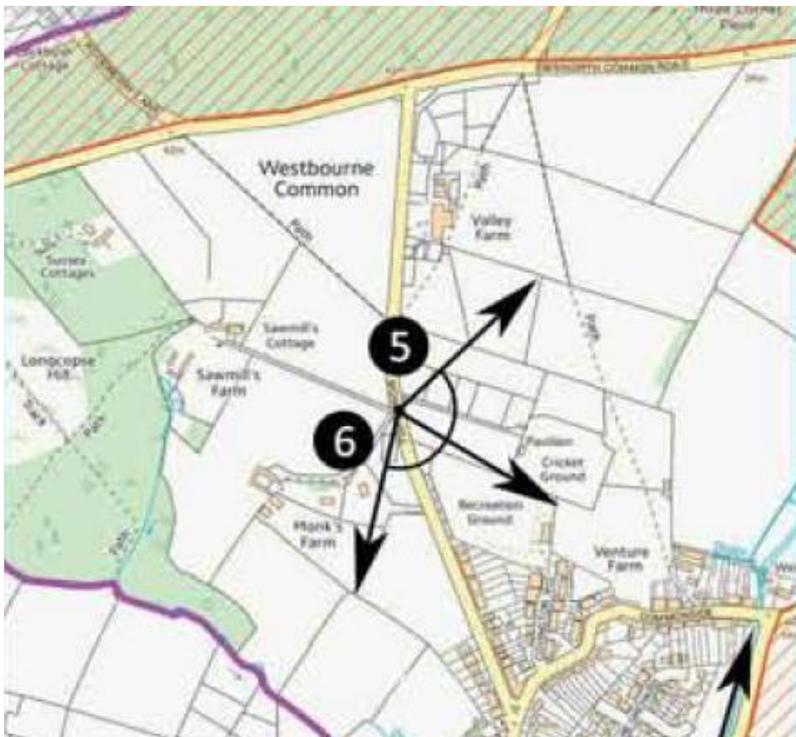
5.132 Regarding the second criterion, that the height of residential buildings on site SS1 should be single storey only, the origin of this design expectation appears to derive from the VDS (2000) at page 14, in the section summarising the “General Points”, one of which states:

*“The views from Monks Hill are cherished and the villagers would like to see them protected by ensuring that the height of any new buildings is kept in scale with the existing.”*

5.133 The development on the east side of Monk’s Hill comprises detached and semi-detached bungalows. Further to the south along Monk’s Hill residential development similarly comprises bungalows. At the Hearing, it was indicated by the Parish representatives that the intention of Policy SS1 would constrain the height of new development to reflect the scale and height of these bungalows.

5.134 As will be seen from the extract from Figure 5 of the WNP, Westbourne Important Views Map, the viewpoint for views 5 and 6 is from the entrance to Monk’s Farmhouse on Monk’s Hill which from the map extract above (Figure 4) is at 35m AOD. By comparison, the height of site

SS1 is below the 25m AOD contour, with the illustrative developable area being substantially south of this contour and at progressively lower levels further to the south. This would suggest that it should be acceptable to deliver housing on Site SS1 further up the slope, north of that shown on the illustrative layout, without materially impacting on the views from the view point for views 5 and 6. If the northern developable boundary on the illustrative plan were to be relaxed, then the ground level of new development on Site SS1 could still be about 5m below that of Monk's Farmhouse and the associated curtilage buildings and also below the height of Nos 1-4 Monk's Hill, the bungalows constructed on the east side of Monk's Hill. Having regard to the shape of Site SS1, this would appear to provide an opportunity to provide additional housing on Site SS1. This would imply not including the "buffer" area which I consider in relation to criterion 4.



*Figure 5 Viewpoint for views 5 and 6 are from the entrance to Monk's Farmhouse, Monk's Hill.*

- 5.135 The observation of Historic England on site allocation SS1 is that the development of only 6 dwellings with a buffer zone to the north would not impact on the setting of the grade II listed Monk's Farmhouse, just to the north of this site. Historic England also welcomed the reference in paragraph 4.14.1 to potential significant archaeological interest and the requirement in Policy SS1 for an archaeological evaluation prior to the submission of any planning application.
- 5.136 On the basis that the illustrative sketch scheme in the submission draft WNP is deleted, as I recommend in relation to criterion 4 below, there would be no necessity to constrain development to include a parallel frontage slip road to Monk's Hill. I therefore recommend that criterion 2 should be amended to read:

**“New development will comprise only single-storey dwellings with pitched roofs;”**

5.137 The third criterion prescribing a single point of access from Monk’s Hill to provide access to Site SS1 should facilitate safe ingress and egress for construction traffic and for the occupiers of the dwellings on completion of the new development. It is not necessary to be overly prescriptive as to the location of the access and I note that the hedgerow along the boundary is not continuous. There may, having regard to matters of topography and service connections, be reasons why the single access point may be better suited to a position other than in the middle of the site and there may be highway considerations which may favour altering the site access and visibility splays, although the intention to retain the hedgerow and trees fronting Monk’s Hill would assist in retaining ecological habitat and provide a visual buffer along Monk’s Hill. The suggestion in the draft policy that there should be a slip road running parallel to Monk’s Hill as depicted in the illustrative sketch scheme on page 40 of the Submission draft WNP is less than ideal because it is more economical in terms of land use to provide development fronting both sides of an access road. By increasing the developable area of Site SS1, it may well be feasible to design a single access with new housing development on both sides of the estate road.

5.138 Accordingly, I recommend that criterion 3 be amended to read as follows:

**“A single point of access from Monk’s Hill. The existing frontage hedgerow and trees will be retained consistent with providing suitable visibility splays;”**

5.139 The fourth criterion of Policy SS1 has two components. The first concerns the creation of a strategic landscape buffer; the second relates to the retention of hedgerow / tree line along the field boundary. As to the proposed illustrative landscaped buffer to the west and north of the dwellings shown on the sketch plan on page 40 of the WNP, the rationale for this is said to be, “to create strategic landscape screening from the National Park”. Firstly, the screening that might be created along the western and northern margins of the site is insufficient to create more than a local buffer. This would not be strategic in its effect. Secondly no screening of the South Down National Park could possibly take place along the western boundary of Site SS1 because the SDNPA does not extend to the south of Emsworth Common Road in the vicinity of this site. To the north of Site SS1 Emsworth Common Road is approximately 600 metres distant. On the southside of Emsworth Common Road is Westbourne Common where the topography is mainly flat as can be seen from the screenshot in Figure 6 below, looking west across Westbourne Common, from Monk’s Hill about 200 metres south of the junction with Emsworth Common Road. As a consequence of the topography, the southern margins of the SDNPA area are not inter-visible from Site SS1. Therefore, buffer planting on the northern margin of site SS1 would not provide screening from the National Park. For these reasons, the first sentence of Criterion 4 is not substantiated and should be deleted.

- 5.140 *Figure 6. Screenshot looking west across Westbourne Common from Monk's Hill showing flat topography. Viewpoint from Monk's Hill, approximately 10 metres south of the entrance to Valley Farm.*



- 5.141 The second element of criterion 4 which states that the hedgerow/tree line along the field boundary is thought to be used by commuting bats and therefore should be retained and enhanced may be correct. Havant Borough Council's Regulation 16 response drew attention to the presence of Bechstein's Bat which inhabits the former Forest of Bere woodlands in this area. Site SS1 is located only 100 metres from the Westbourne Parish and County boundaries. Havant's representations advised that because the proposed WNP housing allocation Policy SS1 is situated on the fringes of potentially suitable habitat for Bechstein's Bat and is potentially within 3km of known roosting sites, surveys should be required to determine the presence of Bechstein's Bat and their flight routes in this area prior to the grant of planning permission for the proposed housing development.
- 5.142 Havant BC indicated all Bechstein's Bat surveys should be undertaken by suitably qualified and licensed ecologists using the correct equipment in the light of the rarity and limited information on the species. In the light of this advice, I proposed an amendment to Policy SS1 to require planning applications for housing development on land to the west of Monk's Hill to include a bat survey undertaken by a suitably qualified ecologist to demonstrate the presence of Bechstein's Bat and flight routes nearby and if appropriate provide a plan for appropriate mitigation measures and habitat management. This amendment was proposed in my draft examination report, dated 19th June 2018, prior to the further HRA and Appropriate Assessment and EIA undertaken on behalf of the parish by CDC the following year.
- 5.143 Concerning this proposed policy amendment to afford protection to Bechstein's bats, Lisa Jackson, planning consultant acting on behalf of Westbourne Parish Council commented in August 2018 that the proposed amendment, limited to the protection of Bechstein's Bats only,

- “... is inconsistent with the CDC Local Plan and Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2010. They are afforded full protection under Section 9(4) of the Act and Regulation 41 of the Regulations”. I note that in the Regulation 16 reply to CDC dated 24<sup>th</sup> July 2017, Natural England commented, “Generally this Plan seems to deal responsibly with the Natural Environment and the sites allocated are unlikely to have any significant adverse effect on designated sites.” No comments were raised by Natural England concerning the need for additional protection of any species of bat in the WNP. Similarly, in its comments under the Regulation 16 consultation, SDNPA raised no comments concerning protective measures for bats in any draft WNP policy.
- 5.144 During the extended examination of the WNP, Havant Borough Council has made progress with its emerging Local Plan. The Regulation 19 version of the emerging HBC Local Plan was subject to consultation between 3 November and 17 December 2020, to address whether the Plan had been prepared in accordance with all legal and procedural requirements and whether the prescribed tests of soundness had been met. On 12 February 2021, the HBC Local Plan was submitted for examination to the Secretary of State for Housing Communities and Local Government. Paragraph 5.187 of the submission version of this plan states that the Council will work with neighbouring authorities to develop key wildlife and ecological corridors. The joint working proposed expressly refers to Chichester District Council having identified strategic wildlife corridors, including the River Ems on the Havant - Chichester border and the protected areas of the South Downs National Park and the Chichester Harbour AONB. Specific mention is made regarding the requirements of the HBC Local Plan site allocation, Policy H8, Long Copse Lane.
- 5.145 Also during the extended examination period, HBC housing allocation, Policy H8 located north of Long Copse Lane where development for comprehensive development of up to 260 new homes and associated parking, open space and surface water drainage on this 14.25 ha site had been proposed was subject to an application to the Secretary of State by Havant BC for a screening opinion as to whether the development amounted to EIA development. In support of the application dated 9th January 2019, HBC cited comment from Natural England in relation to the impact on bats as follows:
- “NE strongly recommends that the design of the scheme avoids potential impacts to protected and notable species, including bats, reptiles and birds. Where avoidance is not possible, detailed consideration should be given to mitigation measures that are supported by significant ecological enhancements. For example, by improving the ecological network and connectivity at the site through woodland and hedgerow planting, improved management of existing woodland areas and the provision of new bat roosts and bird boxes.”*
- 5.146 The Secretary of State’s Screening Opinion dated 17th July 2019 determined that the development was not EIA development. In the full statement of reasons as required by 5(5)(a)

- of the 2017 EIA Regulations regarding location of development the decision letter explains that the Secretary of State subsequently consulted Natural England to help inform his screening direction. The decision letter further advises that Natural England expressed concern that the proposed development could have significant direct and indirect impacts upon the SDNP and its setting, and it considered that further assessment was required. Representations from the SDNP Authority considered that the development could potentially reduce the quality of the landscape character within the SDNP's setting, and that EIA was required. As to the likely impact on bats, the decision letter confirmed the Secretary of State's opinion that "...while protected species, including bats, have been recorded on the site, it appears that mitigation measures could be implemented. Overall, the site is not designated for its importance to protected species and he does not consider that populations of protected species would be affected to the extent that a significant environmental effect is likely for this reason in itself."
- 5.147 Whilst I appreciate that the likely effects of proposed development must be assessed for each site, given the comparative scales of development (some 6 dwellings at site SS1, Monk's Hill compared with 260 dwellings at Long Copse Lane), I remain of the opinion that a proportionate policy expectation to conserve and protect the roosts and flight paths of Bechstein's bats whilst permitting small scale "Parish housing" conforming to CLPKP Policy 5, could be achieved through a policy similar to that proposed in the submission draft HBC Local Plan 2036, based on the use of a mitigation hierarchy of avoid – mitigate – compensate and would not be inconsistent with the references to the conservation and protection of Bechstein's bats in meeting strategic policy requirements in the CLPKP Policy 52 Green Infrastructure, which also incorporates a similar mitigation hierarchy of avoid – mitigate – compensate, to that proposed in the HBC Local Plan 2036.
- 5.148 Taking these matters into consideration, I consider it is appropriate that the Westbourne NP should similarly seek to confer protection and conservation of Bechstein's bats close to the joint boundary with Havant, with the objective of mitigating planning harm associated with the housing allocation at WNP Site SS1, Monk's Hill by appropriately protecting bat roosts and flightpaths, prior to determining development proposals. The specific references in the supporting text to Policy E15 – Protected Species regarding the protection of Bechstein's bats, may prove to be of assistance in relation to joint working between CDC and HBC in assessing proposals for mitigating impact on bats of housing development at Site SS1, Monk's Hill.
- 5.149 In practice, I suspect the likely mitigation requirements for development at Site SS1, are likely to involve measures such as improving the ecological network and connectivity at the site through woodland and hedgerow planting and the provision of new bat roosts. I further note that the proposal nearby allowed on appeal for site SS2, Long Copse Lane for the erection of 16 no dwellings, vehicular and pedestrian access, car and cycle parking and landscaping (application ref: WE/14/00911/FUL, dated 12 March 2014) included Condition 16 which simply stated:

- / “16) Before the dwellings hereby permitted are first occupied, details of proposals for the installation of bat boxes within the development shall be submitted to and be approved in writing by the local planning authority. This shall include a timetable for implementation. Development shall be carried out in accordance with the approved details.”
- 5.150 A similar mitigation requirement may prove appropriate for small scale housing development at Site 1, Monk’s Hill, to satisfy the recommended policy amendment below.
- 5.151 The fifth criterion is that proposals for a footpath link within the site will be provided from the development to Monk’s Hill at an agreed point along the development frontage to encourage journeys on foot to the village. The proposed development is small in scale and would remain so if the number of dwellings was increased beyond 6 houses, due to the size of the site. On the basis that there will be a single point of access to Monk’s Hill for both vehicular and pedestrian traffic, this should be sufficient to serve proposed new development. Therefore, I do not see the necessity to burden the development with a footpath requirement. I recommend that criterion 5 be deleted.
- 5.152 The sixth criterion requires permitted development rights in Classes A, B, C and E of the General Permitted Development Order 2015 (as amended) be removed to ensure that *“the dwellings retain the rural character in these peripheral locations”*. I note that in determining the appeal in relation to the planning appeal concerning the development of 16 dwellings at Long Copse Lane, (Site SS2), there was no requirement for the removal of permitted development rights. This site is a similar peripheral site to SS1 and SS3. Neighbouring development on Monk’s Hill comprises mainly bungalows. These are not rural in character neither is the new development on Site SS2. The proposed new housing development on Site SS1 will be located on the edge of the settlement of Westbourne. It is the countryside beyond this peripheral and allocated site that is rural in character. That character would not be materially altered by conventional small-scale housing development. Within the explanatory text supporting this policy, there is no justification given for the removal or restriction of permitted development rights. For these reasons I am unable to support the sixth criterion and recommend that it be removed from Policy SS1.
- 5.153 The seventh criterion which requires that an archaeological evaluation should be carried out prior to the submission of any planning application appears not to be fully justified by the explanatory text which states at paragraph 4.15.1 *“The early history of the village as an important market may indicate that the historic core contains significant archaeological interest. Any future development will need to take this potential into account”*. Given the uncertainty whether Site SS1 may contain any finds, I recommend that the seventh policy be redrafted as follows:

“Developments will be expected to avoid or minimise harm to significant archaeological assets. In some cases, remains may be incorporated into and/or interpreted in new development. The physical assets should, where possible, be made available to the public on-site and opportunities taken to actively present the site’s archaeology. Where the archaeological asset cannot be preserved or managed on-site, appropriate provision must be made for the investigation, understanding, recording, dissemination and archiving of that asset, and must be undertaken by suitably-qualified individuals or organisations”

5.154 Policy SS1 would then read as follows:

5.155 **Policy SS1: Land to the West of Monk’s Hill**

Land to the west of Monk’s Hill is allocated for **not less than 6 dwellings** for the period 2017-2029. Proposals for the site shall include:

- 1 **New development shall have regard to the principles contained in the Westbourne Village Design Statement;**
- 2 **New development will comprise only single-storey dwellings with pitched roofs ~~The development will comprise only single-storey dwellings with pitched roofs with frontages facing Monk’s Hill;~~**
- 3 **A single point of access from Monk’s Hill ~~in the middle of the site with slip road serving dwellings.~~ The existing frontage hedgerow and trees will be retained consistent with providing suitable visibility splays; and**
- 4 **Prior to the submission of a planning application for new development, bat surveys shall be undertaken by suitably qualified ecologists to determine the presence of Bechstein’s Bat and flight routes in this area and if necessary provide a plan for appropriate mitigation measures and habitat management in advance of planning permission being implemented;**  
**~~The area west and north of the dwellings shown on the sketch plan is to be planted and retained as a landscape buffer to create strategic landscape screening from the National Park. The hedgerow/tree line along the field boundary is thought to be used by commuting bats and therefore should be retained and enhanced;~~**
- 5 **~~A footpath link within the site will be provided from the development to Monk’s Hill at an agreed point along the development frontage to encourage journeys on foot to the village;~~**
- 6 **~~If planning permission is granted, permitted development rights in Classes A, B, C and E of the General Permitted Development Order 2015 (as amended) should be removed to ensure that the dwellings retain the rural character in these peripheral locations;~~**
- 57 **~~An archaeological evaluation should be carried out prior to the submission of any planning application.~~ Developments will be expected to avoid or minimise harm to significant archaeological assets. In some cases, remains may be incorporated into**

**and/or interpreted in new development. The physical assets should, where possible, be made available to the public on-site and opportunities taken to actively present the site's archaeology. Where the archaeological asset cannot be preserved or managed on-site, appropriate provision must be made for the investigation, understanding, recording, dissemination and archiving of that asset, and must be undertaken by suitably qualified individuals or organisations.**

- 5.156 If the Parish Council accepts the policy modifications proposed in this examination report, the supporting statement will need revision to explain and justify the revised policies. Such justification should be capable of being prepared having regard to the reasons and justification provided in support of the modifications recommended in this examination report.

### Policy SS2: Land at Long Copse Lane

- 5.157 Havant Borough Council provided a Regulation 16 representation relevant to Site SS2, for information, advising that the Local Plan Housing Statement includes an area known as Land North of Long Copse Lane (UE76) which is expected to be delivered in a comprehensive manner and is identified as having an indicative site yield of 260 dwellings and is a site considered suitable for 'early release'. This places the growth aspirations of Havant Borough Council for the land north of Long Copse Lane in stark contrast to the limited development aspirations of the WNP close to the County boundary. The proposed development north of Long Copse Lane in Havant will increase the need to maintain a separation between the two urban areas. Policy OA1 in the WNP, if the Plan is made, will assist in maintaining this important separation to preclude coalescence.
- 5.158 Neame Sutton Limited on behalf of Southcott Homes (Fareham) Ltd in its Regulation 16 reply has suggested that there is no need to include a criteria-based policy for the development of the Long Copse Lane site as the proposal made by Southcott Homes has already been allowed on appeal for 16 dwellings and the site has since been delivered. As a consequence, the detailed criteria within the policy are otiose and should be deleted. Southcott Homes' representations stated that the undeveloped land referred to as a 'paddock' on this site presents an ideal opportunity to allocate a further 9 no. dwellings thus meeting the Parish Council's minimum dwelling requirement for the plan period in a single location to ensure that the minimum level of housing for the settlement can be delivered in a timely manner. To the extent that "the Paddock" might be allocated for development in the future would be a matter for the subsequent review of the CLPKP and, if made, the WNP. There appears to me to be no pressing need to release the Paddock, or other land in the Parish now for development in advance of allocated sites SS1 and SS3 being implemented, although I note that the site-specific policies envisaged that this would occur in the period up to 2020. If sites SS1 and SS3 are not implemented in the near future, doubtless there may be pressure from landowners

and developers to consider other parish housing opportunities in Westbourne, compatible with Policy 5 of the CLPKP.

5.159 As indicated by Neame Sutton Limited's Regulation 16 representations I agree that the Policy may be truncated on the basis that planning permission has been granted on appeal for 16 dwellings on land excluding the Paddock and the development realised. I appreciate that development was substantially complete at the time of the Hearing in October 2017. Other than the first sentence, the rest of the policy may be deleted as indicated below:

5.160 **Policy SS2: Land at Long Copse Lane**

**Land at Long Copse Lane is allocated for a maximum of 16 dwellings for the period 2017-2029.**

**~~The proposal will include:~~**

- ~~1—Development will accord with the layout shown below in Figure 17 or an alternative layout that reflects the principles contained in the Village Design Statement;~~**
- ~~2—Details of a landscape scheme will be provided that includes consideration of changing climatic conditions;~~**
- ~~3—Details of site levels and, where finished, floor levels of the dwellings will be set in relation to site levels;~~**
- ~~4—A footpath will be provided along the southern boundary of the site with Long Copse Lane;~~**
- ~~5—A single vehicular access from North Street with a visibility splay of 2.4m x 40m~~**
- ~~6—Foul and surface water drainage strategy including sustainable urban drainage;~~**
- ~~7—Affordable housing provision consistent with CDC policy;~~**
- ~~8—An archaeological evaluation should be carried out prior to the submission of any planning application;~~**
- ~~9—Biodiversity mitigation including bats~~**

**Policy SS3: Land adjacent to Chantry Hall, Foxbury Lane**

5.163 This draft site allocation policy for some 6 new dwellings, a car park and public open space is loaded with some 13 criteria to control the form of new development. This policy is broadly compliant with aspirations and planning policy guidance in the NPPF and CLPKP in common with Policy SS1. This is considered in this examination report in the introduction to the WNP's site specific housing policies but there are a number of areas where this draft policy is overly ambitious and controlling, without sufficient evidence or justification. This does not provide positive planning guidance expected from neighbourhood planning outlined in paragraph 16 of the NPPF. This has been picked up in Regulation 16 representations made

/ by Taylor Wimpey and analytically by Historic England in the ante-penultimate paragraph of this representation which states:

*“As a general point, we still feel that the Plan could perhaps more clearly identify the issues affecting Westbourne that the Plan’s policies and proposals are intended to address. In our experience Neighbourhood Plans usually include a section on issues that have been identified through the community consultation process, which then inform and justify the Plan’s policies and proposals”.*

5.164 In common with the examination of Policy SS1, I now turn to consider the various policy criteria in the draft policy with the objective of recommending a reformulation of the policy to provide for positive planning and delivery of new development consistent where possible with the evidence base and national and local planning policy guidance.

5.165 In the Regulation 16 response from CDC, this policy should relate to the period within which the development is anticipated to be delivered is 2017-2029.

5.166 **Criterion 1      Development to be laid out in accordance with schematic plan, figure 18;**

In reviewing the evidence and comments at the Hearing regarding the housing allocation on land adjacent to Chantry Hall, Foxbury Lane, I accept the rationale for the proposal that this site should include a landscaped buffer zone of not less than 0.175 ha to the north-east of the proposed housing allocation on the balance of the site to the south-west. I agree that a public open space buffer zone would contribute to softening the approach to the settlement at this transition point at the entry to the village on the approach from the north-east along Foxbury Lane or Cemetery Lane from the south-east. The establishment of the Westbourne Community Trust in November 2018 has provided an enhanced framework for the ownership and management of the buffer zone as a community asset. Having regard to my comments below in relation to the proposed car park on part of this site considered under Criterion 7, the illustrative land-use sketch scheme will require revision deleting reference to the proposed car park, if my recommendations concerning this policy are accepted. The balance of the site might be considered for additional residential development, perhaps deferred until later in the life of the plan or alternatively for an expanded area of public open space. To the extent that some additional housing might be sought, there is some limited capacity at the “Plan level” of assessment, relating to nutrient neutrality following the preparation of the Addendum to Environmental Report for Strategic Environmental Assessment (SEA) of the Westbourne Neighbourhood Plan, in October 2020. This capacity according to the Appendix to the Addendum Report, is a nitrogen budget with a precautionary 20% buffer, expressed as -3.0 Kg TN/year, where the negative figure demonstrates the nitrogen wastewater load due to land use change based on the WNP current housing allocations, indicating the reduction in the likely generation of nitrogen from the proposed housing allocations.

- 5.167 In considering the form of neighbouring modern development nearby in Lingfield Close or opposite the site at Lark Way, there has been no imposition of architectural style and since the site of SS3 is currently an open field, there is no evidence of any need that new housing development should conform to or reference any particular style to promote or reinforce local distinctiveness in this location.
- 5.168 There would be merit in the inclusion of an illustrative scheme similar to Figure 18, but showing an illustrative housing layout with a single point of access from Foxbury Lane and the balance of the site as public open space and cross referenced to the supporting statement rather than expressly included in Policy SS3.
- 5.169 **Criterion 2 The development will comprise no more than two-storey dwellings with pitched roofs;**
- 5.170 The justification provided in the explanatory text for this criterion is that new development should conform to the character of this area. This appears reasonable and in any event is likely to conform to local demand and the economics of providing new housing in this location. I believe there would be merit in simplifying the policy as recommended at the end of the assessment of this policy.
- 5.171 **Criterion 3 A single point of access from Foxbury Lane;**
- 5.172 This is reasonable, subject to the views of the Highway Authority regarding visibility splays and the precise location of the access for reasons of traffic safety. Again, I recommend simplifying the policy as indicated at the end of the assessment of this policy.
- 5.173 **Criterion 4 Detailed landscaping scheme to the north-east of new dwellings as indicated on the plan to comprise hedge and trees to protect views from the north-east;**
- 5.174 The identified view included within the VDS which crosses the site is view 9, the viewpoint being from Foxbury Lane looking east. For convenience, the viewpoint and view are shown on Figure 7 below. At the time of my unaccompanied site visit, I was unable to access this view due to the height of the hedge on the western edge of the site. I formed the opinion that this view had not been available for some time and had not been managed. It is not clear why in the explanatory memorandum that, “Screen planting will be significant to the east to protect the views identified in the VDS” (paragraph 4.15.5). Screen planting to the east of the site, or on the eastern margin of the site would have the effect of further restricting the easterly view from viewpoint 9 on Foxbury Lane.

Figure 7 Viewpoint 9 from the VDS, looking east across the southern portion of Site SS3.



5.175 There is no justification in the WNP why hedges and trees need to be introduced within site SS3 “to protect views from the north-east” as sought within Criterion 4. Within the VDS there is no “important view” to or from the north-east of site SS3. Accordingly, I see no justification for this criterion as drafted but do recognise the importance of a detailed and appropriate landscape proposal as part of the comprehensive planning application for the site to create the tranquility for POS use and to signify the point of entry to Westbourne on the approaches to the settlement.

5.176 **Criterion 5 - The hedgerow along Cemetery Lane must be retained and enhanced;**

5.177 At paragraph 4.14.4, in referring to sites SS1 and SS3, the WNP explanatory text states:

*“The development of the allocated sites will not impact on the Conservation Area, open space areas, prominent views, key gateways, local gaps, biodiversity, significant trees or neighbouring amenity and thus will conserve the strong village character.”*

5.178 Paragraph 4.14.8 of the WNP advises that, “The extensive review of sites in the village has only revealed two new entirely suitable sites”, these being sites SS1 and SS3. The explanatory text then contradicts paragraph 4.14.4 by indicating that mitigation measures will be required as the residential development promoted in policies SS1 and SS3 will be significant. It would be helpful if the mitigation measures in paragraph 4.14.8 reflected the recommended policy alterations, if the WNP is to be taken forward to referendum. This may require a slight amendment to the text of paragraph 4.14.4 along the lines of:

- “The development of the allocated sites is unlikely to ~~will not~~ impact significantly on the Conservation Area, open space areas, prominent views, key gateways, ~~local gaps~~, biodiversity, significant trees or neighbouring amenity. To the extent that development proposals may cause some planning harm, it is anticipated that due to the likely scale of proposed development that appropriate mitigation is likely to overcome such harm, thereby conserving the village character and local distinctiveness, all proposals being treated on their merits.”*
- 5.179 In relation to the retention of hedgerows, these would be considered under The Hedgerows Regulations 1997 (SI 1997 No. 1160). These regulations will, through the Local Planning Authority, determine the extent to which protection will be afforded to the hedgerows defining this site. I recommend therefore that Criterion 5 should be removed whilst recognising that appropriate landscape proposals as part of a comprehensive development proposal for mixed use development comprising residential and POS use will be necessary, as shown in my recommended revision to this policy.
- 5.180 **Criterion 6      Open space provided as shown on the sketch scheme to include the retention of existing mature trees to create a natural, tranquil environment in keeping with the setting of the Cemetery;**
- 5.181 The site falls outside the Conservation Area which would otherwise provide protection to existing mature trees. The mature trees on the site could be protected under a Tree Preservation Order. The procedure for making a Tree Preservation Order is set out in Part Two of The Town and Country Planning (Tree Preservation) (England) Regulations 2012. I therefore recommend that consideration be given to seeking protecting of appropriate mature trees separately and in advance of the making of the WNP. As previously indicated, I support the intention of the policy to include detailed landscape proposals to create a natural, tranquil environment, as indicated to the recommended simplified revisions to this policy.
- 5.182 **Criterion 7      A new car park will be provided for village use as set out below and shown on the sketch scheme;**
- 5.183 The need for improved parking and vehicle circulation within the centre of the village has been a matter of concern for the parish during the preparation of the WNP and is referred to in the draft WNP and Consultation Statement. The need for a car park was demonstrated in CS30 Roads Results And Analysis. This document is undated but by reference to the Consultation Statement appears to have been prepared for the public consultation event held on 4th October 2014. In relation to car parking this states:
- “2. A car park in Westbourne (3.92 and 83 comments)  
Most respondents were in favour of a car park, which was seen as very much needed, but asked where it could be sited. This could be of particular benefit to local businesses. Any*

*car park would be preferably free or perhaps with minimal pay and display charges. There was some concern that the addition of a car park would not involve the loss of any open green spaces. The two potential sites that were mentioned were the field behind the Parish Hall and the Wren Centre. **It was felt that any car park would need to be situated reasonably centrally as people are reluctant to walk very far.***

5.184 The evidence base on the Parish Council’s web-site refers to the Westbourne Neighbourhood Plan Working Group which met on 9th December 2014, supported by David Bell from LGPS Resources. The notes of this meeting record that The Square was emerging as an important area to provide specific solutions to identified problems, including deliveries and parking. The meeting note indicates the need to look at parking facilities on street for short term only. The meeting noted that a redesign/reorganisation of the area around The Square is area is likely to provide more orderly, safer and a more effective parking and circulation. One-way traffic circulation was viewed as a possible solution, and the possibility of a “long term” car park siting behind the hall was considered. The latter was commended in principle as such a car park could be used by shop and office staff whilst liberating valuable on-street space for short term shoppers. It was thought that this could have a beneficial effect on the local economy and retain valuable local shops in this rural community. The results of the engagement of the traffic consultant are also included in the paper produced by the Our Roads Task group (ORTG), part of the Westbourne Neighbourhood Plan Steering Group (WNPSG), prepared by Richard Munday on 5th February 2015. Mr. Munday’s summary of the findings of the traffic consultant, Mr Bell were as follows:

- 1 A small kerb to be built out by the southern side of the entrance to King Street to prevent parked cars encroaching onto the road past the Co-op. This is already being looked at by the PC.
- 2 A redesign of the parking on the west side of the square, possibly with the introduction of “herringbone” angled parking.
- 3 In conjunction with (2) the introduction of a rumble strip or similar to mark the edge of the “through road”. This would reduce the tendency to cut the corner when turning left into North Street, create a safer parking area and reduce the road width for pedestrians.
- 4 Pedestrian crossing areas to be marked with brick laid crossings.
- 5 Item (3) may require a reduction of parking on the east side of the square and there is a perceived need to provide additional parking if possible.

5.185 Mr. Munday suggested that to progress these ideas that:

- Dan Sanders of WSCC be invited to discuss the feasibility of these proposals with the PC and ORTG.
- The possibility of creating a community car park behind the church hall be re-investigated.

5.186 It is not clear the extent to which these ideas were taken forward, but the identified need for a car park in the village is elucidated in the Consultation Statement at paragraph 7.9 as follows:

*“The need for extra car parking in the village was also expressed and a petition in favour of establishing a car park in a convenient situation close to the village centre was circulated and signed by twenty-one local businesses.”*

5.187 The evidence in relation to car parking need within the village is not therefore for a location on the periphery of the village beyond the settlement boundary but within the central area.

5.188 In considering the desirability of locating new car parks, I note that the Chichester District Car Park Strategy 2010-2020,<sup>18</sup> at page 13, in delivering off-street parking provision in Chichester District, to deliver the Council’s vision off-street parking provision for the district will be developed in accordance with various strategic principles. The first of these principles is “Monitoring and Review”. Under this heading the car parking strategy advises that the: *“... capacity and use of off-street public parking will be regularly monitored to inform the need for future action, in particular to monitor the effectiveness of the “do minimum” option to encourage the use of alternative means of transportation and reduce congestion. This will target a reduction in 50 car trips per day per annum as a result of smarter choices. It will also ensure that the layouts of car parks make optimum use of the space available and that an undesirable amount of deflection into residential areas doesn’t occur”.*

5.189 Locating a car park within a residential site allocation SS3 would result in, *“an undesirable amount of deflection into residential areas”* and as such would not be consistent with the Chichester District Car Park Strategy 2010-2020. The explanatory text at paragraph 4.14.7 of the WNP and the 5-minute isochrone walking distances from the village centre and primary school (Figures 14 and 15 respectively) show the maximum walking distance to encourage alternatives to the use of the car. This distance is 400 metres and is considered the extent of travel on foot for inhabitants. Within this distance, the explanatory text advises that people naturally walk to facilities. The explanatory text concedes that site SS3 is beyond the 5-minute walk isochrone to the village centre and the primary school. Inhabitants of the village would therefore be unlikely to seek to park in this car park to then walk to the village centre for shopping or to take children to the primary school. It would appear the only potential car park users might be those travelling to Westbourne from Woodmancote and scattered rural housing to the east of Westbourne. As this proposed car park location is less than ideal, being beyond a walk distance of 400 metres to both the primary school and village centre, the use of the car park for those purposes is likely to be sparse. I also note that Site SS3 is close to the boundary of the primary school catchment area. The catchment area for Westbourne Primary

<sup>18</sup> Chichester District Car Park Strategy 2010-2020, Chichester District Council, September 2010

School derived from West Sussex County Council’s web site for Site SS3 is shown on Figure 8 below. Within the catchment area, few pupils could originate from homes in the countryside to the east of Site SS3, whose parents or guardians might nonetheless consider parking beyond the 400 metre walk distance from the school.

Figure 8 Westbourne Primary School Catchment Area; Source;

<https://www.westsussex.gov.uk/education-children-and-families/schools-and-colleges/school-places/school-catchment-areas/>



5.190 At the Hearing, I queried the evidence to support how the car park would be owned and managed. The Parish provided credible evidence through the Westbourne Business Plan 2018 – 2021, that the car park site could be maintained through Community Infrastructure Levy apportionments received by the Parish Council and / or other Parish funding. Although I accept the opportunities to provide parking in the village centre are few, the notes of the meeting on 9<sup>th</sup> December 2014 suggest that there are nonetheless opportunities within the centre of the village to make adjustments to the form of on street parking and perhaps the introduction of one-way traffic schemes to increase traffic flow.

5.191 From the site assessments on page 58 of the WNP, it appears that the rationale for a car park as part of SS3 has changed. There are no references to the need for car parking to serve the identified needs of the village as demonstrated in the evidence base and as stated in paragraph 2.7.6 of the WNP which advises:

*“There is a strong feeling, especially amongst the local business community, that Westbourne needs additional car parking facilities. The Parish does not directly control any suitable land but has identified two or three possible sites. One of these adjoins the allocated development site, adjacent to Chantry Hall, Foxbury Lane (see Policy SS3). Given the scale of the proposed development in the immediate area, the Parish Council is mindful that extra parking will be required in the village area and is currently at the early stage of*

- investigating two other possible sites. If one of these is secured it would offer an opportunity to ease the car parking situation, particularly for visitors using the retail and community facilities in the village. Funding to assist the development of additional car parking facilities has been included in the initial IBP.”*
- 5.192 Instead, the site assessment refers to the provision of, “An informal event car park could assist the village on occasion”. The policy requirement for an “informal event car park” has not been established through the evidence base. Whilst I do not doubt the need for improved parking to serve activity in the centre of the village, site SS3 is too distant to be of any significant advantage for the purpose stated in paragraph 2.7.6 of the WNP and as recognised in CS30 Roads Results And Analysis.
- 5.193 For the reasons examined above associated with Criterion 7, and having regard to my comments reflecting on the progress made by the parish with the formation of the Westbourne Community Trust since 2018, I recommend that the requirement to provide a car park as part of development of site SS3 is deleted from the WNP.
- 5.194 **Criterion 8 A new footpath link to the Cemetery from the proposed village car park will be provided;**
- 5.195 The WNP makes no attempt to justify this proposed footpath connection. I note that visitors to the Cemetery park on Cemetery Lane, apparently without restriction, close to the cemetery entrance. It is not clear to me why such a footpath connection would be a necessary planning requirement associated with the development of site SS3. If this link were to be provided as a town planning requirement, this would be by way of a s106 Agreement. Regulation 122 of the Community Infrastructure Levy Regulations 2010 imposes the following legal requirements before a s.106 obligation can constitute a reason for granting planning permission. The obligation must be:
- 1) necessary to make the development acceptable in planning terms;
  - 2) directly related to the development; and
  - 3) fairly and reasonably related in scale and kind to the development.
- 5.196 This obligation would not be necessary in planning terms to make mainly housing development on this site acceptable.
- 5.197 The site assessment for Site SS3 in the WNP, listing the design requirements, at page 58 states: “..... ensure footpath link through development to village primary school; .....” However, there is no mention of a requirement for a footpath link to the cemetery.

- 5.198 For the reasons explained above, there is no reason provided in the WNP why a footpath link from Site SS3 to the Cemetery should be a planning requirement. I therefore recommend that this criterion should also be deleted from Policy SS3.
- 5.199 **Criterion 9 Area shown on plan to be designated as green space and act as a buffer so the Cemetery and village retain the original ‘hygiene gap’ that is historically significant for the village;**
- 5.200 On the evidence contained within the Archaeological Report prepared by Development Archaeology Services Ltd, comprising the desk-based assessment for the Land adjacent to Chantry Hall, Cemetery Lane /Foxbury Lane), dated September 2012, prepared for Taylor Wimpey by Neville Hall MIFA & C.A. Pine MA BSc<sup>19</sup>, it appears that the cemetery adjoining Cemetery Lane was developed between 1840 and 1875 by reference to Ordnance Survey mapping. The Cemetery is therefore Victorian in its origin. This is consistent with the WNP which at paragraph 4.13.2 explains that the cemetery dates from the mid-19th century. The then isolated site was at a distance from the village to prevent the spread of infection believed to be possible at that time through inhalation, otherwise known as miasma theory. In the 1860s French chemist Louis Pasteur proposed a germ theory of diseases that micro-organisms were the cause of diseases, following which “miasma theory” was debunked. Over the last 140 years it is evident that development in Westbourne has crept closer to the cemetery. Now the gap between residential uses and the cemetery and sheltered housing developed in 2010 at Chantry Hall is about 100 metres from the cemetery. The original siting of the cemetery was mentioned in the heritage considerations of the Chantry Farm appeal but was not considered an important consideration. The inspector’s conclusions on heritage matters are summarised in paragraph 22 of the decision letter as, “*the proposed development would have a slight or minor adverse impact on the setting of an undesignated heritage asset*”. Site SS3, allocated in the Submission draft WNP would reduce the gap between the site and the cemetery to about 65 metres. A gap would still exist and be protected by Policy 2 of the CLPKP.
- 5.201 There is only one reference to the “hygiene gap” in the WNP being this criterion in Policy SS3 and no others in the evidence base documents despite the hygiene gap being said to be of historical significance. There is no evidence to suggest that miasma theory was of sufficient local historical weight to require a hygiene gap or *cordon sanitaire*, to create a “setting” for the cemetery. At the Hearing, I was presented with a plan of the site indicating that the hygiene gap would comprise land within Site SS3, to the south of the proposed new housing development and car park, shown coloured green on Figure 18 within the WNP and described as buffer planting / public open space. In the light of the proposition that there would be

<sup>19</sup> 02 HE Archaeology Report Cemetery Lane Foxbury Lane September 2012. (see Westbourne Parish Council website: <http://www.westbournepc.org/neighbourhood-plan/evidence-base-documents/> )

- / residential development to the north of this “gap” between the cemetery and Foxbury Lane, I find this unconvincing.
- 5.202 The Parish has allocated Site SS3 for development. It wishes to prevent coalescence by maintaining a gap between the village and the cemetery. This would be achieved in any event by the residual gap between the western boundary of the cemetery and the eastern boundary of Site SS3 by virtue of Policy 2 of the CLPKP. Accordingly, I recommend that Criterion 9 be deleted.
- 5.203 **Criterion 10 Before permission is granted, a scheme shall be prepared in consultation with the Parish Council (the Scheme), showing how the public open space and car park is to be laid out. The Scheme shall include:-**
- (i) Provision for access as shown on the sketch scheme;**
  - (ii) The car park will be located in the position indicated on figure 18 in order to maintain the separation between the housing and the Cemetery;**
  - (iii) The surfacing of the car park will be of ‘grasscrete’ or equivalent to maintain the rural setting of the location;**
  - (iv) Vehicle access to the car park;**
  - (v) An area for a paddock as shown on the sketch diagram;**
  - (vi) The area of public open space, car park and paddock that will comprise the Scheme shall be not less than the area shown in Figure 18 and described as a green area for recreational space;**
- 5.204 If my recommendation is accepted in relation to the deletion of the criteria relating to the car park, other than the proposed northern POS area, fronting Cemetery Lane, reflecting the land considered to be particularly sensitive in determining the Chantry Farm planning appeal proposals, much of Criterion 10 is redundant. Concerning the proposal for a paddock to be retained in this location, the need for this has not been evidenced. There is no mention of a paddock at all in the extensive list of design requirements in the site assessment at page 58 of the WNP. It is therefore not clear why there should be a paddock provided in this instance, as part of a housing development, with any suggestion of need absent. Justification for the Parish Council to seek the transfer of some land to public ownership to safeguard the open character of the northern part of Site SS3, was identified by the Chantry Farm appeal Inspector as particularly sensitive and comprising plots 10, 11, 12 and 13 in the Taylor Wimpey appeal proposals located to the south of Cemetery Lane, which could provide a transition zone between the settlement and the countryside beyond to the north.
- 5.205 Having given further regard to the views of the community at the Hearing and accepting the Local Green Space designation of the cemetery and surrounding land, I agree that there would

- be town planning benefit to soften the transition between housing development on Site SS3 and the countryside beyond the settlement boundary, on the Cemetery Lane approach to Westbourne. For these reasons I recommend that the identified area of land comprising about 0.175 hectares, should be formally identified and included in the WNP, identifying the extent of the proposed northern buffer land as POS and replacing the illustrative drawing Figure 18 in the WNP.
- 5.206 I also agree that prior to advancing proposals for a comprehensive planning application for the development of Site SS3 developers should be encouraged to discuss proposals with the Parish Council and Local Planning Authority with regard to the disposition of uses on the site, land transfer arrangements, landscape proposals and management arrangements including funding. These matters would be more helpfully included in the supporting statement than in Policy SS3.
- 5.207 For the reasons explained above, Criterion 10 should be amended as indicated in the recommended revisions to Policy SS3 at the end of this section and as carried forward to Appendix 3.
- 5.208 **Criterion 11 An archaeological evaluation should be carried out prior to the submission of any planning application;**
- 5.209 It is evident that the promoters of Site SS3 have already carried out an archaeological evaluation of the site. Indeed, this was carried out in 2012 and appears as *02 HE Archaeology Report Cemetery Lane Foxbury Lane September 2012 Pdf* in the Parish evidence base. As in the case of Site SS1, it would be more helpful in terms of development management if a framework could be put in place dealing with the site's archaeology if finds are made during development. Accordingly, I recommend Criterion 11 be replaced with the policy revision below and which would become new Criterion 6, if my other recommendations are accepted:
- 6 Developments will be expected to avoid or minimise harm to significant archaeological assets. If appropriate, remains shall be incorporated into and/or interpreted in the new development. The physical assets should, where possible, be made available to the public on-site and opportunities taken to actively present the site's archaeology. Where the archaeological asset cannot be preserved or managed on-site, appropriate provision shall be made for the investigation, understanding, recording, dissemination and archiving of that asset, and undertaken by suitably-qualified persons or organisations.**
- 5.210 **Criterion 12 Any planning permission for residential development shall ensure that provision is made to secure:-**
- (i) The implementation of the Scheme in full by the developer;**

- /
- (ii) **The transfer of all the land comprising the Scheme to an appropriate public body (which may be the Parish Council) to secure its provision as public open space in perpetuity;**
  - (iii) **The payment of an appropriate commuted sum to secure the long-term maintenance of the Scheme;**
- 5.211 Concerning this criterion, from the community’s perspective the important consideration would normally be that the public benefits are secured, either before implementation of the development, or during the development, but certainly in advance of completion. This policy criterion should now be revised to refer to the Westbourne Community Trust as the recipient for the transfer of the land to be allocated as POS and to receive commuted sums for landscape maintenance and management associated with comprehensive development proposals and a related s106 Agreement for Site SS3. It would be appropriate for the planning agreement to include the specification for such landscape works as may be agreed as necessary and a costed specification for the long term maintenance and management of the land to be transferred in order that a commuted sum to be transferred to the acquiring entity could be assessed and agreed. I recommend that this should be covered as shown in the proposed revisions to this policy.
- 5.212 **Criterion 13 Planning permission will be granted with permitted development rights in Classes A, B, C and E of the General Permitted Development Order 2015 (as amended) removed to ensure that dwellings retain the rural character in these peripheral locations.**
- 5.213 Comments in relation to this criterion are the same as those made concerning the identical proposal to strip away permitted development rights in connection with development proposals for site SS1. Again, I recommend that this criterion be removed.
- 5.214 **Assessment of Policy SS3 – Summary**
- 5.215 During the period associated with the analysis undertaken by CDC caused by the further assessment of the environmental considerations associated with the WNP from late 2018, the Parish Council has established the Westbourne Community Trust and acquired the Mill Lane site for the delivery of 12 affordable dwellings. This has significantly demonstrated the Parish Council’s intent to realise “community balance” espoused in the WNP. The Parish will exceed the target for delivery of new dwellings in Westbourne identified in the CLPKP and affordable homes over the life of the neighbourhood plan to 2029. The Westbourne Community Trust provides an ideal mechanism through which the Parish can receive and hold land assets on behalf of the local community, as reviewed at the Hearing and as intended by Policy SS3. Reflecting on these achievements has influenced my assessment of Policy SS3. Whilst I remain of the view that housing delivery pressure will undoubtedly continue beyond the life of this Plan, the WNP allocations and the actions of the Community Trust should ensure that housing need will be exceeded in the period to 2029. Whilst the October 2020 Addendum Report to

- / the SEA might suggest some additional site and Plan level housing capacity concerning nitrate neutrality, the delivery of 6 dwellings would meet the expectation of Policy SS3. Thus, the proposed allocation of at least 6 dwellings on Site SS3 is reasonable.
- 5.216 The intention of Policy SS3 is that the “non-housing” balance of the site should be transferred to the Parish via the Community Trust for public benefit and use following the grant of a comprehensive planning permission. I remain of the view that the proposed use of part of Site SS3 as a car park is not adequately supported by the evidence as assessed in this report. The evidence appears to indicate that parking enhancement could be better achieved in the centre of the village where the need has been identified. However, transfer of the balance of Site SS3 for public open space use to the Community Trust through a s106 agreement need not preclude other uses subsequently, providing the land transfer agreement facilitates this. In such circumstances and subject to need, it may be feasible for the Parish Council to review public car parking use at this location in the future, perhaps on review of the WNP.
- 5.217 The appropriate use of the “non-housing” balance of Site SS3 would therefore be Public Open Space (POS). As part of a comprehensive development proposal for Site SS3, the land use transfer mechanism, access and landscape requirements should be defined, but without the degree of confusion to be found in the supporting statement for the criteria identified in the submission draft WNP.
- 5.218 If the recommendations concerning this policy are accepted, revised Policy SS3 would read as follows:

**Policy SS3: Land adjacent to Chantry Hall, Foxbury Lane**

**Proposals for the comprehensive development of the site allocated for development on land to the north-east of Chantry Hall shall satisfy the following criteria;**

- 1 Residential development shall provide a single point of access from Foxbury Lane and comprise no less than 6 dwellings and constructed on no more than two-storeys under pitched roofs;**
- 2 Public open space (POS) shall be provided on the balance of the site, subject to a requirement that POS on land fronting Foxbury Lane and Cemetery Lane shall not be less than 0.175 hectares;**
- 3 Development proposals shall be accompanied by a detailed landscape scheme for the residential component of the site and the balance of the site allocated as POS. The latter shall include appropriate retention of existing mature trees; appropriate hedgerow retention and enhancement along Cemetery Lane; and the creation of a natural, tranquil environment to maintain the character of Westbourne at this village entrance,**
- 4 The landscape proposals relating to the area(s) of POS shall be separately identified and**

- /
- be accompanied by a costed maintenance and management schedule which shall also identify the capitalised cost of maintenance of the POS in perpetuity.**
- 5 The area(s) of POS shall be transferred to the Westbourne Community Trust prior to the implementation of planning permission for the development of Site SS3, together with a planning obligation to complete the landscaping improvements to the POS in advance of first occupation of any new dwelling and to transfer the capitalized maintenance contribution prior to the first occupation of 50% of the gross floorspace of the residential development permitted;**
- 6 Developments will be expected to avoid or minimise harm to significant archaeological assets. If appropriate, remains shall be incorporated into and/or interpreted in the new development. The physical assets should, where possible, be made available to the public on-site and opportunities taken to actively present the site's archaeology. Where the archaeological asset cannot be preserved or managed on-site, appropriate provision shall be made for the investigation, understanding, recording, dissemination and archiving of that asset, and undertaken by suitably-qualified persons or organisations.**

## 6.0 Summary

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- 6.1 The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:
- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the neighbourhood plan.
  - d. the making of the neighbourhood plan contributes to the achievement of sustainable development.
  - e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
  - f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
  - g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).
- 6.2 Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) prescribes further basic conditions in addition to those set out in the primary legislation, that in the making of the neighbourhood plan, the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (which sets out the habitat regulation assessment process for land use plans, includes consideration of the effect on habitats sites) will not be breached. The additional analyses undertaken in the Habitats Regulations

- / Assessment Appropriate Assessment Screening Statement, March 2019 and the SEA undertaken by CDC confirms that likely negative effects of the development proposed within the WNP policies and identified through the proposed monitoring framework, may be mitigated via the Solent Recreation Mitigation Partnership. To the extent that any unexpected and harmful effects might arise, I note that these may be mitigated on subsequent review of the WNP. As the SEA concluded that provided mitigation measures were implemented, none of the policies would result in a significant negative impact on the environment, the requirements of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018 will be satisfied. Concerning “Nutrient Neutrality”, the addendum to the Final Environmental Report for Strategic Environmental Assessment (SEA) of Westbourne Neighbourhood Plan, September 2020, concluded that, in relation to the calculated budgets for the housing allocations on Land adjacent to Chantry Hall, Foxbury Lane and at Land to the west of Monk’s Hill, the neighbourhood plan level nitrogen budget (for both sites in combination), shows a negative overall budget of -3 kg TN/year. Therefore, at the neighbourhood plan level, no mitigation is required and this potential mechanism of impact has been assessed as having no likely significant effect.
- 6.3 On the evidence of the extensive additional assessments presented and associated consultation, I accept the veracity of the approach taken and the findings of these supplementary assessments.
- 6.4 I am content that the Plan does not breach and is not otherwise incompatible with the European Convention on Human Rights or breach Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (The Strategic Environmental Assessment (SEA) Directive); or Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive).
- 6.5 Subject to my recommendations being acceptable concerning policy modifications suggested in section 5 of this report, I concur with the Basic Conditions Statement that the Plan policies relate to land use planning matters (the use and development of land) and that this neighbourhood plan has been prepared in accordance with the statutory requirements and processes set out in the Neighbourhood Planning (General) Regulations 2012, as explained and for the reasons given in section 2 of this report.

## 7.0 Conclusions and Recommendations

- 7.1 I conclude that the WNP policies, subject to my recommended modifications as set out in this examination report, will contribute to the attainment of sustainable development within the Parish of Westbourne. I also conclude that, subject to the recommendations in this report being accepted, the Plan would meet the basic conditions as defined in the Localism Act 2011, Schedule 10 and Schedule 4B, 8 (2) of the Town and Country Planning Act 1990 and Regulation

- / 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) and the requirements of the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.
- 7.2 I am satisfied that subject to the recommended policy revisions being accepted, that the draft WNP has given adequate regard to the policies in the National Planning Policy Framework (NPPF 2012) and other relevant national planning guidance and would be in conformity with the strategic policies of both the adopted Chichester Local Plan Key Policies (2014-2029) and where relevant, the South Downs Local Plan. In finalising this report, I am aware of the considerable changes in national planning policy that have occurred over the last two years in addition to relevant adopted planning policy in the South Downs Local Plan. These changes are reflected as relevant in this report and will require considerable revision to the supporting text to the submission draft WNP. I trust that this examination report will provide assistance in undertaking this process, if the Plan is taken forward to referendum.
- 7.3 For the reasons set out above and subject to the modifications indicated in the preceding sections of this examination report being accepted, I consider that the Plan will make a positive contribution to the attainment of sustainable development, promoting economic growth, supporting social wellbeing, whilst conserving the natural and historic environment within the Parish of Westbourne and would meet the neighbourhood planning “basic conditions”.
- 7.4 I therefore recommend that in accordance with Schedule 4B to the Town and Country Planning Act 1990, paragraph 10 (2), b) that the modifications specified in this report are made to the Westbourne Neighbourhood Plan and that the draft Plan as modified is submitted to a referendum.
- 7.5 On 7th April 2020, the Ministry of Housing, Communities and Local Government (MHCLG) published a new paragraph 107 in Planning Practice Guidance, Neighbourhood planning. This advised amongst other matters that:
- All neighbourhood planning (NP) referendums that were meant to take place between 16 March 2020 and 5 May 2021 have been postponed until 6 May 2021 pursuant to the Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 (SI 2020/395).
  - Where a local planning authority (LPA) has issued a decision statement containing a detailed intention to send a NP to referendum, (as set out under Regulation 18 of the Neighbourhood Planning (General) Regulations 2012), the plan can be given significant weight in decision-making so as long as the NP is material to the planning application.

- 7.6 Consequently, and subject to CDC issuing a decision statement containing a detailed intention to send the WNP to referendum, the Plan, incorporating the recommended modifications could then be given significant weight in decision-making, provided that the WNP is material to the planning application under consideration in the Neighbourhood Area.

#### Referendum Area

- 7.7 It is the independent examiner's role to consider the referendum area appropriate if the Qualifying Body wishes to proceed to the referendum stage. In the event that the Parish Council wishes to proceed to a referendum with this Plan, I consider that the referendum area should extend to the entire Parish Council area, being the designated Neighbourhood Area.

**Jeremy Edge BSc FRICS MRTPI**  
**20<sup>th</sup> March 2021**

## Appendix 1 – Changes introduced by EU environmental case law in 2018 and the intervention by CDC in 2019 to enable the WNP to conform to consequential regulatory changes.

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- 1.1 As a consequence of EU environmental case law in 2018, the effects of the decisions of the Court of Justice of the European Union (CJEU) necessitated interpretation and amendments to regulations and procedures in the constituent parts of the United Kingdom, followed by further work to support the Westbourne NP to ensure compliance with the Habitat Regulations and related assessment (HRA) and Strategic Environmental Assessment (SEA). This process has necessarily been considered as part of this examination to ensure compliance with the Basic Conditions and is explained in further detail below. This period of significant additional work was carefully managed on behalf of Westbourne Parish Council by CDC once there was clarity from Government on the way forward from February 2019. These additional assessments were completed in October 2019. It should also be appreciated that there were revisions to the NPPF and adoption of the South Downs Local Plan, which is effectively sub-regional planning policy across the SDNPA’s administrative area, in addition to national environmental regulations concerning SEA. These changes are outlined in the main examination report. The background to the changes in EU case law and the interpretation in respect of changes to planning and environmental law are summarised below followed by an explanation of the further analysis undertaken by CDC on behalf of the Parish Council concerning the likely effects on the WNP.

### **CJEU decisions and issues concerned the interpretation of the Habitats Directive and the EIA Directive.**

- 2.1 In the first case of note, *“People Over Wind and Sweetman v Coillte Teoranta (Case C-323/17)”*<sup>20</sup>, the CJEU ruled in April 2018 on a dispute concerning the impact on freshwater pearl mussel of a proposed electricity cable serving a wind farm in the Republic of Ireland. The CJEU ruling prevented planning and other competent authorities when screening a plan or project for Habitats Regulations Assessment (HRA), from taking account of any measures intended to avoid or reduce harmful effects on such a site. This judgement overturned domestic UK case law. The effect was that the majority of plans and projects which previously would not have been subject to full HRA, were now likely to be forced to undertake an appropriate assessment.

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<sup>20</sup> People Over Wind and Sweetman v Coillte Teoranta (Case C-323/17) CJEU, <http://curia.europa.eu/juris/document/document.jsf?docid=200970&doclang=EN>

- 2.2 Under Article 6(3) of the Habitats Directive, an appropriate assessment is required where a plan or project is likely to have a significant effect upon a European site, either individually or in combination with other projects. Habitats Regulations Assessment (HRA) is a sequential four step process to identify whether there are likely to be significant adverse effects on the integrity of a European site (or sites) (known as HRA screening), what those effects will be, what alternative solutions are available to avoid those effects and, if unavoidable, whether they must be accepted and compensation provided for the effect on the European site. The four step HRA process is inevitably time and resource intensive, for the applicant in providing detailed information to inform that HRA, and the competent authority in interrogating it to inform its decision. Prior to this decision of the CJEU, full HRA had been relevant only to plans and projects for which the possibility of adverse effects had not been ruled out at the screening stage. The *People over Wind* and *Sweetman* ruling overturned this approach.
- 2.3 In November 2018 the CJEU delivered its judgment in Case C-461/17 *Holohan v. An Bord Pleanála* ECLI:EU:C:2018:649<sup>21</sup>. This judgment concerned the Habitats Directive and the 2011 EIA Directive and was a further reference from the Irish High Court. The applicants challenged a decision of the An Bord Pleanála in July 2014 to grant consent for the proposed Kilkenny Northern Ring Road Extension which would, if constructed, cross the River Nore Special Protection Area and River Barrow and River Nore Site of Community Importance.
- 2.4 In its ruling, the CJEU said the Habitats Directive means an Appropriate Assessment (AA) must catalogue all the habitat types and species for which a site is protected. An AA must also identify and examine the implications of the proposed project for the species present on that site, those for which the site had not been listed and those to be found outside the boundaries of the site, provided those implications are liable to affect the conservation objectives of the site.
- 2.5 The European Court found that a competent authority can only grant a consent which leaves a developer free to determine parameters relating to the construction phase if that authority is certain the consent establishes conditions “strict enough” to guarantee those parameters will not adversely affect the integrity of the site.
- 2.6 The decision established that the Habitats Directive also requires, when a competent authority rejects findings in a scientific expert opinion recommending that additional information be obtained, the AA must include an “explicit and detailed” statement of reasons “capable of dispelling all scientific doubt” concerning the effects of the work on the site.

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<sup>21</sup> Case C-461/17 *Holohan v. An Bord Pleanála* ECLI:EU:C:2018:649

<http://curia.europa.eu/juris/document/document.jsf?text=&docid=209885&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=1373866>

- 2.7 The CJEU also ruled the EIA Directive obliges a developer to supply information that expressly addresses the significant effects of their project on all species identified in the environmental statement supplied.
- 2.8 Taking these decisions into account, Steve Quartermain the Chief Planner wrote to all planning authorities in England and Wales on 15<sup>th</sup> January 2019<sup>22</sup> directing that in the light of the judgements of the CJEU that it is not appropriate to take account of mitigation measures when screening plans and projects for their effects on European protected habitats under the Habitats Directive. The advice stated that *“if a likely significant effect is identified at the screening stage of a habitats assessment, an ‘Appropriate Assessment’ of those effects must be Undertaken.”* The advice also explained that to overcome the uncertainty introduced into the English planning system by these decisions of the CJEU, changes had been made to the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018, to conform to these judgments, effective from 28<sup>th</sup> December 2018.

#### **Procedural steps undertaken by CDC**

- 2.9 On 22<sup>nd</sup> January 2019, CDC advised Westbourne Parish Council that it had the expertise and experience to assist the Parish Council and offered to undertake the procedural steps that would be required to conform to the decisions of the European Court and the related changes to the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018. This offer outlined the steps that were required and advised that this would be a lengthy process and would, if accepted be undertaken in accordance with a programme to undertake similar work at Selsey and Boxgrove, commencing in February 2019.
- 2.10 The programme of work outlined by CDC in order that the WNP would conform to European Law and the revised regulations was as follows:

#### ***Habitats Regulation Assessment (HRA) and Appropriate Assessment Statement***

1. CDC to draft revised Appropriate Assessment Statement to accord with new requirements in the light of both Sweetman and Holohan judgements.
2. Consultation with South Downs National Park Authority (SDNPA) on Appropriate Assessment Statement as required (if joint neighbourhood plan with SDNPA).

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<sup>22</sup> Habitats Regulation Assessment

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/950321/Chief\\_Planner\\_Letter\\_People\\_Over\\_Wind.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/950321/Chief_Planner_Letter_People_Over_Wind.pdf)

3. Consultation on Appropriate Assessment Statement with Natural England.
4. Finalisation of Appropriate Assessment Statement and Chichester District Council Constitution procedures for delegated authority sign-off.
5. Draft Appropriate Assessment Statement sent to Examiner of neighbourhood plan with advice of CDC intention to publish Statement for consultation with statutory consultees and all those who have submitted representations as part of the Council's Regulation 16 consultation for 5-week period. (To minimise consultation periods, 5-week period to coincide with consultation on scope of SEA, as set out below).

***Strategic Environmental Assessment (SEA)***

1. CDC to draft SEA scoping report for neighbourhood plan.
2. CDC to publish SEA Scoping Report in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 for consultation with statutory consultees, to include SDNPA as necessary, and all those who have submitted representations as part of the Council's Regulation 16 consultation for 5 week period. (Please note: To minimise consultation periods, 5 week period to coincide with consultation on Appropriate Assessment as set out in Step 5 above).
3. CDC to advise Examiner of publication of SEA Scoping Report, along with Appropriate Assessment Statement as above, and period of consultation.
4. Following completion of public consultation, CDC to take account of comments and to draft an Environmental Report for further public consultation, likely to be for 4 weeks, with statutory consultees and all those who have submitted representations as part of the Council's Regulation 16 consultation. Representations received on Environmental Report to be forwarded to Examiner of neighbourhood plan for consideration. CDC will only be able to draft the Environmental Report if the issues are restricted to nature conservation and protected species or habitats. If the SEA Scoping Report identifies other issues that need to be addressed in the Environmental Report (perhaps as a result of consultation with the statutory bodies) then the parish council will need to commission the work to deal with these issues.

2.11 CDC proceeded with this programme of work. I was kept informed as the steps were completed and provided with the associated documents.

2.12 On 26<sup>th</sup> Mach 2019, CDC provided me with the Westbourne Habitats Regulations Assessment (HRA) Screening Matrix and Appropriate Assessment Statement. This was published on the

- / CDC website for consultation for a period of 5 weeks. All statutory consultees and those who submitted representations at the Regulation 16 consultation stage of the submission version of the Westbourne Neighbourhood Plan were notified, the closing date for representations being Thursday 2 May 2019.
- 2.13 On 17<sup>th</sup> April 2019, CDC forwarded to me a copy of the Scoping Report for Strategic Environmental Assessment (SEA) of Westbourne Neighbourhood Plan. This Statement was published on the CDC website on the CDC website for consultation for 5-weeks. Again, all statutory consultees and those who submitted representations at the Regulation 16 consultation stage of the submission version of the Westbourne Neighbourhood Plan were consulted, the closing date for representations being Wednesday 22 May 2019.
- 2.14 On 10<sup>th</sup> May 2019, CDC provided me with copies of the consultation replies to the Westbourne Neighbourhood Plan - Habitats Regulations Assessment Screening Matrix and Appropriate Assessment Statement. Representations had been received from:
- Arun District Council:
  - Highways England:
  - Historic England:
  - Natural England:
  - Sport England: and
  - West Sussex County Council
- None of these parties made substantive comments.
- 2.15 On 3<sup>rd</sup> June 2019, CDC forwarded to me the consultation replies received concerning the Westbourne Neighbourhood Plan – Strategic Environmental Assessment (SEA) Scoping Report - May 2019. Representations had been received from:
- Arun District Council
  - Environment Agency
  - Highways England
  - Natural England
  - South Downs National Park Authority
  - West Sussex County Council
- Substantive comments were made by Natural England recommending the inclusion of Biodiversity, Landscape and Green infrastructure indicators and made broad suggestions as to the indicators likely to be relevant, whilst not being prescriptive.
- 2.16 SDNPA made two comments, the first noting that there was no outline of the contents of the WNP or its main objectives and secondly that Singleton and Cocking Tunnels SAC have been scoped out as they are assessed to be too far from the parish, with no potential mechanism of impact. The SDNPA commented that given that the 3 sites allocated for housing development

- / were adjacent to the settlement of Westbourne and beyond the 12km wider conservation area and as such significant impact can be screened out.
- 2.17 On 25<sup>th</sup> July 2019, I received the Draft Environmental Report for Strategic Environmental Assessment (SEA) of Westbourne Neighbourhood Plan, in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004. This had been published for a period of 5 weeks public consultation and was available to view on the District Council's website for comment until 2 September 2019. I understand that the Report was subsequently agreed under delegated powers. The final completed Environmental Report, including Technical Summary, to accompany the submission version of the Westbourne Neighbourhood Plan was forwarded to me on 3<sup>rd</sup> December 2019 shortly before publication on the CDC website, thus completing the outstanding procedures required by the Council in relation to Appropriate Assessment and SEA to support the submission version of the WNP.
- 2.18 I note that the summary of likely effects of the development proposed within the WNP policies and identified through the proposed monitoring framework, negative effects may be mitigated via the Solent Recreation Mitigation Partnership. To the extent that any unexpected and harmful effects might arise, I note that these may be mitigated on subsequent review of the WNP. As a consequence, the conclusions of this extensive exercise were that the Strategic Environmental Assessment of the policies within Westbourne Neighbourhood Plan had been undertaken against the SEA framework and the results presented in an Environmental Report. Since SEA can consider mitigation measures, the assessment had concluded that provided mitigation measures were implemented, none of the policies would result in a significant negative impact on the environment. On the evidence presented and subject to extensive consultation and review, I have no reason to doubt the veracity of either the approach taken or the findings of this supplementary assessment.
- 3.0 **Revised Habitats Regulation Assessment (HRA) and Appropriate Assessment Statement; and an Addendum to the Environmental Report for Strategic Environmental Assessment (SEA) of Westbourne Neighbourhood Plan, to address nutrient neutrality.**
- 3.1 Following the additional consultations undertaken by CDC outlined in section 2 of this appendix above, Natural England explained that its assessments during 2019/20 suggested that more than 3,000 hectares of the intertidal parts of Chichester Harbour, the subject of several European designations, was now classified as being in an "unfavourable - declining" condition. A contributing factor to this change affecting water quality was the build-up of excess nutrients in the harbour causing eutrophication (algal growth), impacting on the harbour's ecology and conservation.
- 3.2 CDC explained that sewage from new development using waste-water treatment works or an on-site package treatment plant that discharges to Chichester Harbour contributes to the

- / excess nutrients in the Harbour (albeit in small amounts relative to other sources) and therefore needs to be considered in line with the Habitats Regulations. Consequently, before agreeing to a proposal (such as a planning application or a development plan) the authority needed to undertake a Habitats Regulations Assessment and be satisfied that the proposal would not have any adverse impact on the protected site or sites. This process obviously caused further delay to the examination of the Westbourne NP, already much delayed due to the earlier additional consultations following the changes introduced consequent upon the CJEU's environmental law decisions in 2018 explained in more detail in section 1 of this appendix above.
- 3.3 I was advised on 9th October 2020 by CDC that this process had been completed through the preparation of:
- A revised Habitats Regulation Assessment (HRA) and Appropriate Assessment Statement; and an
  - Addendum to Environmental Report for Strategic Environmental Assessment (SEA) of Westbourne Neighbourhood Plan, to address nutrient neutrality.
- These two documents were published for a period of 5 weeks of public consultation ending on 13<sup>th</sup> November 2020.
- 3.4 I understand that the European sites potentially impacted were identified as Chichester and Langstone Harbours SPA, The Chichester Harbour Fluvial Catchment, and an area served by a Wastewater Treatment Plant that discharges to Chichester Harbour. In relation to significance, and the residential allocations in the WNP, the 16 dwellings at Long Copse Lane with planning permission pre-dated the change in the condition status for Chichester Harbour. The impact of development proposed by the WNP were limited to the two allocations being Land to the West of Monk's Hill and Land Adjacent to Chantry Hall. I understand that the assessment indicated that the plan level nitrogen budget for both of these sites together, showed a negative overall budget with no mitigation required. Thus, this potential mechanism of impact could be screened out of further assessment, as having no likely significant effect. Concerning other potential mechanisms of impact, including on the SAC habitat features of intertidal mudflats, saltmarsh, sand and shingle spits and sand dunes, the report states that the evidence submitted showed no likely significant effect, without mitigation measures (either alone or in combination with other plans or projects). In addition, the assessment found that no loss of SAC habitat, either direct or indirect through water quality impacts, was considered likely. I note however that the Stage 2 conclusion found that the effects of the WNP would lead to likely significant effects on the integrity of a European Site due to "recreational disturbance".
- 3.5 I also note that having considered the mitigation measures to be provided in-perpetuity through the secured contributions to the Solent Recreation Mitigation Strategy, Chichester District Council concluded that the policies of Westbourne Neighbourhood Plan will not lead

- / to any significant or adverse effects on the integrity of the Chichester and Langstone Harbours SPA / Ramsar Site. The Appropriate Assessment includes confirmation that Natural England agrees that:
- “...likely significant effects due to water quality can be ruled out as there will be an overall net reduction in nutrients entering the European sites as a result of the NP. We also agree with the conclusion of the Appropriate Assessment, that the Neighbourhood Plan will not have an adverse effect on the integrity of the Chichester and Langstone Harbours SPA/Ramsar site due to the recreational disturbance mitigation measures secured.”*
- 3.6 The assessment concluded that no amendment was necessary to Westbourne Neighbourhood Plan because of Natural England’s comments.
- 3.7 On 25th November 2020, I received copies of the representations made to CDC during the consultation period together with copies of the Westbourne Neighbourhood Plan – Revised Habitats Regulations Assessment (HRA) Screening Matrix and Appropriate Assessment Statement and Addendum to SEA Environmental Report. Representations had been received from:
- Natural England
  - West Sussex County Council
  - Highways England
  - Historic England
  - Sport England
- 3.8 West Sussex County Council, Highways England, Historic England advised that they had no further comments or did not wish to make representations. Sport England’s comments did not relate to the consultation documents.
- 3.9 Natural England welcomed the production of the SEA Screening report and Addendum concurring with the screening outcome. As to the Habitats Regulations Assessment Screening and Appropriate Assessment, NE confirmed that it agrees with the report’s conclusions that, subject to appropriate mitigation measures, the Westbourne Neighbourhood Plan would not result in a significant effect on the integrity of the Chichester and Langstone Harbours SPA / Ramsar Site.
- 3.10 This has been a satisfactory outcome in support of the WNP and its policies in relation to the concerns regarding nutrient quality and the likely impact of the WNP on the European sites identified as being at risk.

## Appendix 2 – Background Documents.

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In examining the WNP, I have had regard to the following documents:

1. Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive) Town and Country Planning Act 1990 (as amended)
2. Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora
3. The Town & Country Planning Act 1990 (as amended)
4. The Planning and Compulsory Purchase Act 2004 (as amended)
5. Human Rights Act 1998
6. National Planning Policy Framework, 27 March 2012
7. National Planning Policy Framework, revised 24 July 2018
8. National Planning Policy Framework, revised 19 February 2019
9. National Planning Policy Framework, revised 19 June 2019
10. Planning Practice Guidance, Last updated 1 October 2019
11. Neighbourhood Planning (General) Regulations 2012
12. National Design Guidance, Ministry of Housing, Communities and Local Government, January 2021
13. The Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018
14. Chief Planning Officer's letter to LPAs - Habitats Regulations Assessments – 15<sup>th</sup> January 2019
15. Chichester Local Plan Key Policies 2014 2029
16. South Downs Local Plan (adopted on 02 July 2019)
17. Westbourne Neighbourhood Plan Basic Conditions Statement Submission Version: April 2017
18. Westbourne Neighbourhood Plan Consultation Statement, Submission Version: April 2017
19. Westbourne Parish Council's Evidence Base Documents – from Parish Council's website

### ***Heritage Documents***

- 01 HE Archaeology And Heritage Report Long Copse Lane
- 02 HE Archaeology Report Cemetery Lane Foxbury Lane September 2012
- 03 HE West Sussex CC Historic Environment Record

### ***Housing and Population Documents***

- 01 H&P Chichester Local Plan Key Policies 2014 2029
- 02 H&P CDC Housing Information Westbourne December 2014
- 03 H&P CDC SHLAA March 2010
- 04 H&P CDC SHLAA March 2013

- 05 H&P CDC SHLAA May 2014
- 06 H&P CDC SHLAA May 2014 Map
- 07 H&P Localism Act 2011
- 08 H&P National Planning Policy Framework
- 09 H&P National Planning Practice Guidance
- 10 H&P N Yorkshire Accommodation Requirements Of Showmen Report December 2009
- 11 H&P Planning Policy For Traveller Sites
- 12 H&P Planning Update March 2015 Written Statement To Parliament
- 13 H&P Designing Gypsy And Traveller Sites Good Practice Guide
- 14 H&P Proof Of Evidence Historic Buildings Advisor
- 15 H&P Havant Borough Council Adopted Allocations Plan July 2014
- 16 H&P Havant Borough Council Adopted Core Strategy 2011
- 17 H&P Havant Borough Council Draft Local Plan Housing Statement 2016
- 18 H&P Village Design Statement
- 19 H&P Westbourne CACA 2012
- 20 H&P Westbourne GTTSP Evidence Report 2016
- 20a H&P Appendix A Letter Exchange WPC, CDC, WSCC
- 20b H&P Appendix B Statement Re Gypsy Travellers Westbourne 30 10 2016
- 20c H&P Appendix C Dist Of Plots Pitches
- 20d H&P Appendix D Sample Of Objector Comments
- 20e H&P Appendix E Appeal Decision Old Army Camp 2000
- 20f H&P Appendix F Comments Of Responses Compiled From Reg 14 Consultation
- 20g H&P Appendix G Enforcement Report To WPC
- 20h H&P Appendix H Chichester Local Plan KP 36
- 20i H&P Appendix I Laying The Foundations A Housing Strategy For England
- 20j H&P Appendix J GTTS And ECHR
- 20k H&P Appendix K Non Designated Asset CL
- 20l H&P Appendix L Exchanges Of Emails CDC, Parish Council, PCSO, Community
- 20m H&P Appendix M Gypsy Traveller And Travelling Showpeople

***Site Allocation Development Plan Document Review***

- 20n H&P Appendix N Appeal Re 5 Pitch Site 14 01217 FUL APPEAL ALLOWED 12 4 16 2121069
- 21 H&P Westbourne Neighbourhood Plan GTTS Feb 2017
- 22 H&P WNP Pre Submission Draft 2 September 2016
- 23 H&P Westbourne Parish Plan 2006
- 24 H&P Westbourne Settlement Capacity Profile 2013
- 25 H&P Westbourne West Sussex Ward Profile 2013

***Infrastructure Documents***

- 01 IN Chichester District Council Strategic Flood Review 2008
- 02 IN CDC Residential Parking Standards
- 03 IN CDC Wastewater Treatment Position Statement 2014
- 04 IN CDC Position Statement On Wastewater And Delivering Development In The Local Plan
- 05 IN Chichester District Council Car Park Strategy 2010 2020
- 06 IN LGPS Summary Of December 2014 Meeting On Traffic In Westbourne
- 07 IN Westbourne Square Traffic And Parking Discussion Paper 2015
- 08 IN West Sussex Transport Plan 2011 2026

***Landscape and Biodiversity Documents***

- 01 L&B CDC Biodiversity Action Plan 2011
- 02 L&B Chichester Landscape Capacity Extension 2011
- 03 L&B CDC Strategic Flood Risk Assessment User Guide
- 04 L&B Chichester Harbour Conservancy Management Plan -
- 05 L&B Chichester Harbour Conservancy Planning Guidelines 2014
- 06 L&B European Habitats Directive
- 07 L&B Westbourne Pre Sub NP SEA Determination Letter 25 10 2016
- 08 L&B South Coast Plain
- 09 L&B South Downs State Of The National Park Report
- 10 L&B South Downs Landscape Character Areas
- 11 L&B South Downs Local Plan Master 24 08 2015
- 12 L&B South Downs Local Character Areas Westbourne CP
- 13 L&B SxBRC Westbourne Chalk Streams To Compton
- 14 L&B SxBRC Report For Westbourne Parish 2015
- 15 L&B West Sussex CC Historic Landscape Character Assessment
- 16 L&B West Sussex Landscape Strategy Countywide Landscape Guidelines
- 17 L&B West Sussex Minerals Plan March 2015
- 18 L&B West Sussex Joint Minerals Local Plan April 2016
- 19 L&B West Sussex Rights Of Way Current Provision
- 20 L&B Westbourne Important Views Assessment
- 21 L&B Westbourne Local Gaps Assessment
- 22 South Downs National Park: View Characterisation and Analysis Final Report.  
Prepared by LUC on behalf of the South Downs National Park Authority, November 2015

***Consultation evidence documents***

- CS01 Neighbourhood Plan Flyer April-May 2013
- CS02 Parish Assembly & Public Meeting Flyer April-May 2013
- CS03 Minutes of Neighbourhood Plan Meeting 2 May 2013

- CS04 Minutes of WNPSG Meeting 16 May 2013
- CS05 Terms of Reference 26 July 2013
- CS06 Westbourne Designation Letter 3 December 2013
- CS07 Westbourne Designation Map
- CS08 Flyer/Questionnaire 14 July 2013
- CS09 Flyer & Open Day Responses June & July 2013
- CS10 WNPSG Stakeholder Notice 17 February 2015
- CS11 Chichester District Council Contacts & Stakeholder Contacts
- CS12 Local Stakeholders & Community Groups - list
- CS13 Westbourne Businesses - list
- CS14 Local Business & Community Group Feedback details
- CS15 Rowena Tyler's Presentation January 2014
- CS16 Main Questionnaire Booklet May 2014
- CS17 Flyer for Public Consultation event October 2014
- CS18 Rowena Tyler's Presentation
- CS19 John Herton's Presentation
- CS20 Call for sites article
- CS21 Call for sites/landowners
- CS22 Neighbourhood Plan Flyer for Open Day July 2015
- CS23 Neighbourhood Plan event comments July 2015
- CS24 Neighbourhood Plan event scorecards July 2015
- CS25 Neighbourhood Plan event Meeting Boards July 2015
- CS26 Westbourne Magazine Article August 2015
- CS27 Quotes for Economy display
- CS28 Copy of Economy scoresheet
- CS29 Environment Results and analysis
- CS30 Roads results and analysis
- CS31 Our Community feedback
- CS32 Our Homes charts
- CS33 Young people's questionnaire
- CS34 Young people's comments
- CS35 Preferences expressed at the Open Day
- CS36 Preferences expressed by Postcode
- CS37 Postcode Map
- CS38 Westbourne Magazine article December 2015
- CS39 Comments & responses to Pre-submission 1
- CS40 Comment cards for Open Day March 2016
- CS41 Event consultation poster for March 2016
- CS42 Email to local organisations 26 February 2016
- CS43 Email to statutory consultees 26 February 2016
- CS44 Car Park petition - 1

- / CS45 Car Park petition - 2
  - CS46 Car Park petition - 3
  - CS47 Westbourne Parish Newsletter November 2016
  - CS48 Comments & responses to Pre-Submission 2
  - CS49 Focussed consultation November 2016
  - CS50 Planning history of land north of Long Copse Lane
- 
- 20. South Downs Local Plan - Pre-submission Consultation September – November 2017
  - 21. European Habitats Directive (92/43/EC)
  - 22. Environmental Assessment of Plans and Programmes Regulations 2004
  - 23. Equality Act 2010
  - 24. Human Rights Act 1998
  - 25. The Neighbourhood Planning (General) Regulations 2012
  - 26. Village Design Statement, Submission Version, April 2017
  - 27. Westbourne Village Design Statement April 2000 (adopted as Supplementary Planning Guidance)
  - 28. “How to gather and use evidence” Planning Aid England / Royal Town Planning Institute – undated.
  - 29. The Town and Country Planning (Tree Preservation) (England) Regulations 2012
  - 30. Chichester District Car Park Strategy 2010-2020, Chichester District Council, September 2010
  - 31. Hearing Documents:
    - a. Agenda
    - b. Opening statement of WNDPSG
    - c. Annotated plan of land adjacent to Chantry Hall
    - d. WNDPSG paper on the settlement boundary provided in advance of the hearing
    - e. The preliminary examination questions and preliminary answers of the WNDPSG
    - f. Appeal decisions at Chantry Farm APP/L3815/A/13/2205297 and Mill Lane APP/L3815/W/16/3164723
    - g. Statement of Common Ground between Chichester District Council and Westbourne Parish Council - Gypsy and Travellers and Travelling Showpeople Figures - 23 October 2017

## Appendix 3 - Summary of Recommended Revised Policies

### Policy OA1: Sustainable Development

- 1 Within the Settlement Boundary, as shown in Figure 5, there is a presumption in favour of sustainable development that will apply to proposals that meet all the policies of this plan.
- 2 Outside the Settlement Boundary, development proposals will not normally be considered either appropriate or sustainable unless;
  - (i) they comply with all other policy requirements of the development plan; or
  - (ii) it is sustainable development where the benefits demonstrably outweigh the harm, and is of a form or type that could not reasonably be located within the Settlement Boundary; or
  - (iii) they are rural exception sites to meet local need.
- 3 Development proposals will need to demonstrate that they have had regard to all relevant NP policies.

### Policy OA2: Local Economy and Employment

Recommendation - The policy should be deleted.

### Policy OA3: Community Facilities

Proposals that result in the loss of community uses within the Parish will not normally be supported, unless it can be demonstrated that the community use is no longer required and an alternative community use cannot utilise the building or site as demonstrated through market testing as prescribed in CLPKP Appendix E.

### Policy OA4: Community Balance

#### OA4-1 GTTPS PLOTS/PITCHES

Development proposals to meet the needs of the Gypsy, Traveller and Travelling Showpeople community (as defined in Planning Policy for Traveller Sites (2015) or any subsequent policy) will be permitted where they:

- a) Can demonstrate a local connection;
- b) Can demonstrate that there is no alternative available pitch which could be used in the locality;

- c) Do not result in sites being over-concentrated in any one location or disproportionate in size to nearby communities;
- d) Are capable of being provided with infrastructure such as power, water supply, foul water drainage and recycling/waste management;
- e) Provide sufficient amenity space for residents;
- f) Do not cause, and are not subject to, unacceptable harm to the amenities of neighbouring uses and occupiers;
- g) Have a safe vehicular and pedestrian access from the public highway and adequate provision for parking, turning and safe maneuvering of vehicles within the site; and
- h) Restrict any permanent built structures in rural locations to essential facilities”

Proposals for sites accommodating Travelling Showpeople should allow for a mixed-use yard with areas for the storage and maintenance of equipment.

#### **OA4-2 HOUSING FOR OLDER PEOPLE**

Proposals for the provision of housing for older people that meet the wide range of their circumstances and lifestyles will be welcomed and considered in accordance with Government Planning Policy and guidance.

#### **Policy LD1: Local distinctiveness**

All new development proposals in Westbourne Parish, will be required to follow the policies set out in this Plan and have regard to the guidance set out in the Westbourne Village Design Statement.

- 1 All new development proposals must demonstrate how they will integrate into the existing surroundings and reflect the established vernacular of the Parish in terms of building styles and materials;
- 2 The density of new development should be in character with the immediate local surrounding area, respect the rural nature of the Parish and avoid uniform designs;
  - 1 All new development should have well-defined public and private spaces and enclosure should reflect the local rural character of the area. Appropriate planting with trees and hedges will be encouraged; and

- 2 All new development must demonstrate how sustainable means of travel have been considered and where feasible incorporated to mitigate the impact of parking within Westbourne.

**Policy LD2: Important Views**

**Recommendation - The policy should be deleted.**

**Policy LD3: Heritage**

1. The historic environment of the parish and its heritage assets (both designated and non-designated) will be conserved or enhanced.
2. All new development should conserve or enhance the special interest-character and appearance of the Conservation Area or the significance of other heritage assets. Planning applications will explain how the design of proposals have sought to retain or enhance positive features of the area identified in the District Council's Conservation Area Appraisal and Management Plan or address issues identified in that document.
3. Development proposals that affect designated and non-designated heritage assets must demonstrate how proposals will conserve or enhance the historic significance of the asset and its setting proportionate to the assets' importance sufficient to indicate the potential impact of the proposal on their significance.
4. Archaeological investigation of sites where new developments or improvements are proposed will be required in areas where there is high archaeological potential. Following a desk-based assessment, appropriate archaeological investigation must be carried out, where appropriate, prior to construction of new developments. Any reports should be made available for public viewing and be submitted to the County Council for inclusion in the Historic Environment Record.

**Policy LD4: Local Gaps**

**Recommendation - The policy should be deleted.**

**Policy BD1: Biodiversity Opportunity Area and SSSI Policy**

**Within the Biodiversity Opportunity Area or a Site of Nature Conservation Importance, see figure 12, Proposals must demonstrate how they improve the biodiversity of the site and be accompanied by a management plan to show how they can maintain and enhance the biodiversity opportunity over time.**

## **Policy BD 2: Natural Environment Policy**

In order to promote the opportunities for biodiversity in the Westbourne Neighbourhood Plan area, Biodiversity Corridors and existing ecological networks are identified in Figure 12. These offer protection to the significant number of species of flora and fauna to be found there. To protect and enhance the resilience of these corridors and networks for species within, proposals must be accompanied by a management plan to demonstrate;

- i) how they will provide net gains to the habitats of the identified corridors; and
- ii) how the protection, enhancement and management of the biodiversity of the site will contribute to the resilience of the wider ecological network.

## **Policy LGS1: Cemetery Green Space**

The site identified in Figure 13 is designated as Local Green Space. The area of the Cemetery and its Heritage setting is very important to Westbourne residents, to the families whose loved ones have been laid to rest there and to visitors to the area and is classified in Chichester District Council's Historic Environment Register as a non-designated heritage asset.

## **Policy SS1: Land to the West of Monk's Hill**

Land to the west of Monk's Hill is allocated for not less than 6 dwellings for the period 2017-2029. Proposals for the site shall include:

- 1 New development shall have regard to the principles contained in the Westbourne Village Design Statement;
- 2 New development will comprise only single-storey dwellings with pitched roofs;
- 3 A single point of access from Monk's Hill. The existing frontage hedgerow and trees will be retained consistent with providing suitable visibility splays; and
- 4 Prior to the submission of a planning application for new development, bat surveys shall be undertaken by suitably qualified ecologists to determine the presence of Bechstein's Bat and flight routes in this area and if necessary provide a plan for appropriate mitigation measures and habitat management in advance of planning permission being implemented.

## **Policy SS2: Land at Long Copse Lane**

Land at Long Copse Lane is allocated for a maximum of 16 dwellings for the period 2017-2029.

**Policy SS3: Land adjacent to Chantry Hall, Foxbury Lane**

**Proposals for the comprehensive development of the site allocated for development on land to the north-east of Chantry Hall shall satisfy the following criteria;**

- 1 Residential development shall provide a single point of access from Foxbury Lane and comprise no less than 6 dwellings and constructed on no more than two-storeys under pitched roofs;**
- 2 Public open space (POS) shall be provided on the balance of the site, subject to a requirement that POS on land fronting Foxbury Lane and Cemetery Lane shall not be less than 0.175 hectares;**
- 3 Development proposals shall be accompanied by a detailed landscape scheme for the residential component of the site and the balance of the site allocated as POS. The latter shall include appropriate retention of existing mature trees; appropriate hedgerow retention and enhancement along Cemetery Lane; and the creation of a natural, tranquil environment to maintain the character of Westbourne at this village entrance,**
- 4 The landscape proposals relating to the area(s) of POS shall be separately identified and be accompanied by a costed maintenance and management schedule which shall also identify the capitalised cost of maintenance of the POS in perpetuity.**
- 5 The area(s) of POS shall be transferred to the Westbourne Community Trust prior to the implementation of planning permission for the development of Site SS3, together with a planning obligation to complete the landscaping improvements to the POS in advance of first occupation of any new dwelling and to transfer the capitalized maintenance contribution prior to the first occupation of 50% of the gross floorspace of the residential development permitted;**
- 6 Developments will be expected to avoid or minimise harm to significant archaeological assets. If appropriate, remains shall be incorporated into and/or interpreted in the new development. The physical assets should, where possible, be made available to the public on-site and opportunities taken to actively present the site's archaeology. Where the archaeological asset cannot be preserved or managed on-site, appropriate provision shall be made for the investigation, understanding, recording, dissemination and archiving of that asset, and undertaken by suitably-qualified persons or organisations**

## Appendix 4 - Statement of Common Ground

### Westbourne Neighbourhood Plan Examination

#### Statement of Common Ground between Chichester District Council and Westbourne Parish Council

#### Gypsy and Travellers and Travelling Showpeople Figures Date: 23 October 2017

#### Policy OA4-2 Community Balance GTIS Plots and Pitches Examination Hearing Question 10:

##### Summary

This statement has been prepared to assist the Examiner of the Westbourne Neighbourhood Plan 2017-2029.

##### Background

The Examiner has asked that the main parties prepare a statement of common ground to establish the location, number of Gypsy Travellers (GT) plots and Travelling Show persons (TS) pitches that currently exist in Westbourne Parish, whether there are any planning permissions remaining to be fully implemented and the number of consented plots not yet developed, with the last census data for the Parish.

The Examiner has also asked for this information from other Parishes in the CDC area.

There are a total of **38** Gypsy and traveller pitches and **6** travelling showperson plots in the parish of Westbourne that have been granted planning permission. The site at Land West of Hopedene, Common Road also has permission (WE/14/03834/FUL) for a pitch for a site manager. However, as yet it is not confirmed whether or not the manager complies with the definition of Gypsy and traveller and therefore the figure is shown for completeness but not included in the calculation. Most of the applications have been implemented with exception of 14/01217/FUL and 16/01529/FUL. Table 1 below sets out the permission reference numbers, dates of decision and where the sites are located within the parish.

##### Five Year Supply

Chichester District Council can confirm that currently there is a 7.5 year supply for Gypsy and traveller pitches and that the need for travelling show people has been met.

**Table 1: Gypsy and traveller pitches and travelling showpeople plots granted permission**

Gypsy and travellers				
Application No.	Site	Decision	Pitches/Plots	Comment
WE/78/00008	The Old Army Camp, Cemetery Lane	County Council granted deemed planning	15	Homespace Sustainable Accommodation

WE/07/02873/CPO (WSCC WE/287/07)		permission (06.03.78)  Permit (27.07.07)	2	
WE/14/03834/FUL	Land West of Hopedene, Common Road	Permit (08.04.15)	12 (+1 site manager)	Variation to permission 11/05445/FUL (14.03.12) and 13/03787/FUL (26.03.14)
WE/14/01217/FUL	Land West of Harwood, Cemetery Lane	Refuse	5	Allowed at appeal (12.04.16)
WE/14/04206/FUL	Land North of Recreation Ground, Monks Hill	Refuse	1	Allowed at appeal (07.01.16)
WE/16/01529/FUL	The Meadow, Cemetery Lane	Refuse	1	Allowed at appeal (06.02.17)
WE/16/03454/COU	Land Adjacent To Westbourne Gypsy Site Cemetery Lane Woodmancote Westbourne West Sussex	DES106 - DEFER FOR SECTION 106 THEN PERMIT	2	Decision issued 8.6.17
<b>TOTAL</b>			<b>38</b>	
<b>Travelling Showpeople</b>				
WE/05/00756/FUL	Ten Acres, Cemetery Lane	Permit (19.10.05)	1	
WE/15/04086/FUL	The Old Army Camp, Cemetery Lane	Permit (20.07.16)	4	
WE/15/03965/FUL	The Woodlands	Refuse	1	Allowed at appeal 29.06.17
<b>TOTAL</b>			<b>6</b>	

Table 2: Current GTTS application in Westbourne Parish

WE/16/03656/FUL	Old Army Camp, Cemetery Lane	Application for 2 GT pitches and 4 TS plots		Site is currently occupied by 6 to 8 unauthorised Statics, possibly Gypsy Travellers, Enforcement awaiting the determination of the planning application before starting any action
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Table 3: CDC Parish and Town GTTS Pitches and Plots Supply-19 October 017

<i>Town and Parish Councils</i>	<i>Population</i>	<i>GT pitches</i>	<i>TS plots</i>	<i>Transit site</i>	<i>Total Parish Supply</i>	<i>% of CDC pitches plots</i>	<i>% of CDC population</i>	<i>% GTTS per head</i>
Westbourne PC	2,309	38 (+1 site manager)	6	0	44	<b>25%</b>	0.04%	1.91%
Funtington PC	1,549	28	2	3	33	17.84%	0.03%	2.13%
Southbourne PC	6,265	9	14	0	23	13.07%	0.11%	0.37%
Tangmere PC	<b>2,625</b>	23	0	0	23	13.07%	0.04%	0.88%
Sidlesham PC	1,171	12	3	0	15	8.52%	0.02%	1.28%
E Wittering & Bracklesham PC	<b>4,658</b>	8	2	0	10	5.68%	0.08%	0.21%
Chidham & Hambrook PC	1,356	9	0	0	9	5.11%	0.02%	0.66%
Westhampnett PC	709	0	0	9	9	5.11%	0.01%	1.27%
Oving PC	1,051	8	0	0	8	4.55%	0.02%	0.76%
Hunston PC	1,257	3	0	0	3	1.70%	0.02%	0.24%
Chichester TC	27,731	0	2	0	2	1.14%	<b>0.50%</b>	0.01%
Kirdford PC	1,063	2	0	0	2	1.14%	0.02%	0.19%
Birdham PC	1,483	1	0	0	1	0.57%	0.03%	0.07%

North Mundham PC	1,201	1	0	0	1	0.57%	0.08%	0.08%
Wisborough Green PC	1,414	0	1	0	1	0.57%	0.03%	0.07%
Total	55,842	142	30	12	176			
		(143 site mana ger)						

**List of 52 CDC TOWN & PARISH COUNCILS WITH NO GTTS PITCHES & PLOTS  
(NB Parish names in bold text have higher population than Westbourne)**

Appledram, Barlavington, Sutton & Signor, Septon PC, **Bosham PC**, Boxgrove PC, Bury PC, Cocking PC, Compton PC, Dennington PC, Duncton PC, Earnley PC, Eartham PC, Easebourne PC, East Dean PC, East Lavington PC, Ebernoe PC, Elsted with Treyford PC, **Fernhurst PC**, **Fishbourne PC**, Fittleworth PC, Graffham PC, Harting PC, Heyshott PC, Lavant PC, Linch PC, **Linchmere PC**, Lodsworth PC, Loxwood PC, Lurgashall PC, Marden PC, **Midhurst TC**, Milland PC, Northchapel PC, **Petworth TC**, Plaistow and Ifold PC, Rogate PC, **Selsey TC**, Singleton PC, Stedham with Iping PC, Stoughton PC, Tillington PC, Trotton with Chithurst PC, Upwaltham, West Dean PC, West Itchenor PC, West Lavington PC, West Thorney, **West Wittering PC**, Woolbeding with Redford PC

Signed:

On behalf of Chichester District Council



Valerie Dobson - Principal Planning Officer

On behalf of Westbourne Neighbourhood Plan Steering Group



Piers Mason