

Town and Country Planning Act 1990
Neighbourhood Planning (General) Regulations 2012

SILCHESTER NEIGHBOURHOOD DEVELOPMENT PLAN 2024-2040

INDEPENDENT EXAMINATION

Final Report to Basingstoke and Deane Borough Council
by Edward F Cousins BA, BL, LL.M, Barrister

23rd November 2025

CONTENTS

INTRODUCTION	1
THE LEGAL FRAMEWORK	3
THE EXAMINATION	17
VISION AND OBJECTIVES	18
NEIGHBOURHOOD PLAN POLICIES	19
CONCLUSIONS	53

PART 1

INTRODUCTION

1. This Report comprises the findings of my examination (*‘the Examination’*) into the draft Silchester Neighbourhood Development Plan (*‘the Neighbourhood Plan’*). As required by Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (*‘the 2012 Regulations’*) the Neighbourhood Plan consultation by Silchester Parish Council (*‘the Parish Council’*) was completed in December 2024. Subsequently, in accordance with Regulation 16 of the 2012 Regulations the Parish Council formally submitted the Neighbourhood Plan to Basingstoke and Deane Borough Council (*‘BDBC’*). BDBC then held a consultation which concluded on 30th June 2025. I was then retained as the Examiner commencing July 2025 and the documentation was made available to me through the Parish and BDBC’s website, by email and in the form of hard copy to enable me to conduct the Examination.
2. Following my examination, I recommend that the Neighbourhood Plan should proceed to referendum, but in doing so, I am proposing significant modifications to the Neighbourhood Plan to ensure that it satisfies the basic conditions (*‘the Basic Conditions’*) including the deletion of the allocation at Little London Road. In my view the policy is not in conformity with the strategic policies of the Local Plan, and I cannot be satisfied that it would contribute to the achievement of sustainable development. Taking this into account, Policy SIL8 – Land at Little London Road - does not meet the Basic Conditions.
3. I have been unable to recommend modifications which would have resolved these issues without the Policy’s deletion. An alternative would have been to recommend that the Neighbourhood Plan did not proceed to referendum, but I have rejected this approach for the reason that overall, the Neighbourhood Plan meets the Basic Conditions.
4. I understand this will be disappointing for the Parish Council as I note the amount of work effected by the Parish Council in order to support the Neighbourhood Plan. However, the Neighbourhood Plan cannot proceed without satisfying the consideration of the Basic Conditions.

My appointment

5. I have been appointed by BDBC to conduct an independent examination into the Neighbourhood Plan. I am independent of the Parish Council and BDBC. I do not have any interest in any land that may be the subject of the Neighbourhood Plan - nor do I have any professional conflicts of interest.

6. I am a Barrister in practice at Radcliffe Chambers, where additionally I act as a Mediator. I have also joined a set of Chambers in Manchester – Nine St John Street – as an Associate Member. Previously, I was the Principal Judge of the Land Registration Division of the Property Chamber and a Chancery barrister in practice in Lincoln’s Inn. Currently I am a specialist property and planning lawyer, with particular expertise in markets and fairs, including street trading; commons and town and village greens; manorial rights; mines and minerals; and land registration law and practice. I have wide experience examining neighbourhood development plans and, when necessary, conducting public hearings as part of the examination process. In addition to my membership of the Bar of England and Wales, I was also called to the Bar of Ireland at Trinity Term 2001, and I hold a Practising Certificate in Ireland, together with a Practising Certificate in Northern Ireland where I was called in October 2022.

PART 2

THE LEGAL FRAMEWORK

Neighbourhood Planning

The Background

1. Neighbourhood planning is the process introduced by Parliament as enacted by the Localism Act 2011 (*‘the 2011 Act’*). The intellectual purpose of neighbourhood planning is to seek to enfranchise those persons living and working in a community by providing the basis through which they can play a more active role in the process of deciding the future of their neighbourhood. It has been described as the ability: -

‘to give to communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.’

2. Thus, the 2011 Act gave powers to Parish Councils to involve their communities in the creation of neighbourhood development plans in order to provide them with a greater say in planning matters. Parish Council’s are therefore able to play a role in the establishment of general planning policies for the development and use of land in their neighbourhoods. Examples of such involvement are directed to the siting, design and construction of new homes and offices, and the designation of local green space. The neighbourhood plan sets a vision for the future for the area concerned. It can be detailed, or general, depending on the views of local people.
3. In order to ensure that the new process is workable and effective the 2011 Act introduced the requisite amendments into the Town and Country Planning Act 1990, and the Planning and Compensation Act 2004 (*‘the 2004 Act’*).¹

¹ The 1990 Act, ss. 61E to 61P, Sch. 4B (neighbourhood development orders); the Planning and Compulsory Purchase Act 2004, ss. 38A to 38C (neighbourhood plans), as amended by the 2011 Act. These amendments variously came into force on subsequent days in 2012 and 2013 and were supplemented by detailed procedures provided in the 2012 and 2013 Regulations.

Qualifying Body

4. I am satisfied that Silchester Parish Council is an appropriate ‘*Qualifying Body*,’ as defined. They are therefore entitled to submit to the local planning authority the Neighbourhood Plan as an essential prerequisite to its being ‘*made*.’

Neighbourhood Plan Area

5. The first step towards producing a neighbourhood plan is for a parish council, or other qualifying body, to define a ‘*neighbourhood area*’ for which it considers that a plan should be prepared and presented.² This is part of the process which that body is entitled to initiate for the purpose of requiring the local planning authority in England to make a neighbourhood development plan for the whole or any part of its area specified in the plan.³ A ‘*neighbourhood development plan*’ is a plan -

‘... which sets out policies (however expressed) in relation to the development and use of land in the whole or any part of a particular neighbourhood area.’⁴

6. I note from the Neighbourhood Plan documentation and BDBC’s website that the Neighbourhood Plan Area was designated and approved by BDBC on 16th October 2023. A plan showing the boundary of the Neighbourhood Plan Area is shown in the Neighbourhood Plan on page 3, at Figure 2.

Public Consultation

7. Regulation 14 of the 2012 Regulations sets out the requirements for pre-submission consultation, and Schedule 1 thereto makes reference to the relevant consultation bodies. The Consultation Statement sets out the aim of the consultation activities.
8. The Consultation Statement accompanying the Neighbourhood Plan also sets out the pre- submission consultation process. This refers to informal and formal consultation with the community and other stakeholders. BDBC provides advice to its Parish Council’s in a Neighbourhood Plan protocol document. For effective community engagement it recommends holding events/drop-in sessions, adverts/posters, letters/flyers to everyone in the neighbourhood area, questionnaires/comments forms,

² See s 38A(1).

³ The 1990 Act, s. 61F(1), (2), applied by the 2004 Act, s. 38C(2)(a).

⁴ By virtue of 38A(2).

use of websites, social media, and e-mail, and notices in parish newsletters/local magazines. I am satisfied that the community engagement process during the preparation of the neighbourhood plan has broadly adopted this recommended approach.

9. Paragraph 8.6 of BDBC's protocol document reinforces the need for all consultation material to include details of the plan, details of where and when the plan can be viewed (including the locations of hard copies), details of how to make representations, and the date by which representations must be submitted. Paragraph 8.7 reminds Parish Councils to keep all the consultation material for examination. This is consistent with the requirements of the Neighbourhood Plan regulations.
10. The Council's compliance check list letter dated 15th May 2025 confirms its view that the statutory consultation undertaken by the Parish Council does comply with the requirements and regulations set out under Paragraph 4 of Schedule 4B of the TCPA 1990 and as prescribed by Regulation 14 of the Regulations.
11. Appendices G to L in the Consultation Statement includes examples of the Regulation 14 consultation which took place between 6th November 2024 and 18th December 2024 including an extract of the Parish Council website, the text used in consultation material, statements that the materials were posted on notice boards and included in the village newsletter. Notably in respect of consultation with residents, the consultation involved a newsletter delivered to residents in the last week of November – (approximately 24th November 2024 onwards) allowing a 3½ week period in which to make representations. Additionally, details of the consultation were posted on five local notice boards and at the Pavillion.
12. A note on the Parish Council website states the consultation commenced on 6th November 2024 with a link to the Neighbourhood Plan documents. Notably, the information contained within Appendix G of the Consultation Statement did not demonstrate that the website page announcing the Regulation 14 consultation included the necessary information required by the regulations including details of how to make representations, and the date by which representations must be submitted. However, in

response to my request, the Parish Council has provided a screenshot of one page of the Draft Neighbourhood Plan which includes the full details required by the regulations.

13. BDBC has reviewed its Consultation Compliance Checklist. BDBC comments that ‘although this is not ideal, the council considers that the Regulation 14 consultation was sufficiently publicised via other consultation methods (as outlined above) that would have brought the Plan to the attention of people who live, work or carry on business in the area’. In my view, the Regulation 14 consultation completed by the Parish Council, particularly in respect of its engagement at that time with residents, is not good practice. However, I am satisfied, given the support by BDBC, that the consultation process, as corrected by the subsequent submissions, satisfies the minimum consultation requirements.

THE STATUTORY FRAMEWORK

The Detail

Referendum

14. The purpose of the referendum is to decide whether the draft plan should be ‘*made*,’ subject to any changes recommended by the Examiner and accepted by the planning authority. If more than 50% of those voting, vote in favour of the plan, the local planning authority must ‘*make the plan*’ as soon as reasonably practicable.
15. Once it comes into force, a neighbourhood development plan forms part of the development plan for the area to which it relates, together with the strategic policies in the adopted local plan, the “*saved*” policies of the relevant local plan, any plans for minerals and waste disposal, and any saved policies of the relevant regional strategy. Thereafter it forms an integral part of the policy framework that guides the local planning authority and the Planning Inspectorate, in making all planning decisions in the area.
16. Given the nature of the Policies in the Neighbourhood Plan I have concluded that it needs both Examination and a Referendum.

Compliance with provision made by or under sections 38A and 38B of the 2004 Act

Section 38A – Meaning of “neighbourhood development plan”

17. Section 38A of the 2004 Act (as amended) provides that any ‘*qualifying body*’ is entitled to initiate a process for the purpose of requiring a local planning authority in England to make a neighbourhood development plan. As noted above, the Parish Council is a Qualifying Body by virtue of the provisions of 38A(12). Further, as stated above, BDBC is the local planning authority for the purpose of the 2004 Act.
18. Section 38A(2) requires the neighbourhood development plan only to contain policies relating to the development and use of land lying in the neighbourhood area. The policies are set out in Section 5 of the Neighbourhood Plan. I should state at this stage that I am satisfied that the Policies do relate to the use and development of land within the neighbourhood area, and not to extraneous matters.
19. By Section 38(3)(c) of the 2004 Act, a neighbourhood development plan that has been made in relation to an area forms part of the statutory development plan, for the purpose of guiding town and country planning decisions. Under Section 38(6) there is a presumption in favour of determining planning applications in accordance with the neighbourhood development plan unless material considerations indicate otherwise.

Section 38B

20. Section 38B of the 2004 Act provides as follows:

‘38B Provision that may be made by neighbourhood development plans

(1) A neighbourhood development plan—

- (a) must specify the period for which it is to have effect,*
- (b) may not include provision about development that is excluded development, and*
- (c) may not relate to more than one neighbourhood area.*

(2) Only one neighbourhood development plan may be made for each neighbourhood area.

(3) If to any extent a policy set out in a neighbourhood development plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy.

(4) Regulations made by the Secretary of State may make provision—

- (a) restricting the provision that may be included in neighbourhood development plans about the use of land,*
- (b) requiring neighbourhood development plans to include such matters as are prescribed in the regulations, and*
- (c) prescribing the form of neighbourhood development plans.*

(5) A local planning authority must publish each neighbourhood development plan that they make in such manner as may be prescribed by regulations made by the Secretary of State.

(6) Section 61K of the principal Act (meaning of “excluded development”) is to apply for the purposes of subsection (1)(b).’

21. Section 61K provides, so far as is material, as follows: -

‘61K Meaning of “excluded development”

The following development is excluded development for the purposes of section 61J—

- (a) development that consists of a county matter within paragraph 1(1)(a) to (h) of Schedule 1,*
- (b) development that consists of the carrying out of any operation, or class of operation, prescribed under paragraph 1(j) of that Schedule (waste development) but that does not consist of development of a prescribed description,*
- (c) development that falls within Annex 1 to Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (as amended from time to time),⁵*
- (d) development that consists (whether wholly or partly) of a nationally significant infrastructure project (within the meaning of the Planning Act 2008).’*

22. I should state at this stage that I am satisfied that the Neighbourhood Plan clearly specifies the period for which it is to have effect (2024-2040); it does not include ‘*excluded development*’; and it is the only neighbourhood plan for the area.

23. The 2012 Regulations are made under section 38B of the 2004 Act. These prescribe detailed requirements for neighbourhood development plan proposals and how they are to be consulted upon, publicised, and submitted.

⁵ This must now be taken to refer to codifying Directive 2011/92/EU. This repealed and re-enacted Directive 85/337/EEC and its amending instruments. It states at Article 14 that references to the repealed directive are to be construed as references to the new directive as a matter of consistent interpretation and under the principle of construction codified in relation to domestic law by s.17(2)(a) of the Interpretation Act 1978.

What must the Examiner examine?

24. Paragraph 8 of Schedule 4B to the 1990 Act, as modified by section 38C (5) of the 2004 Act, requires the examiner to consider the following:

- whether the draft plan meets the Basic Conditions. These are defined at subparagraph (2);
- whether it complies with the provision made by or under sections 38A and 38B of the 2004 Act; and
- whether the area for any referendum should extend beyond the neighbourhood area to which the draft plan relates; and
- whether the draft plan is compatible with ‘*the Convention rights,*’ as defined by the Human Rights Act 1998⁶.

25. Paragraph 11(2) of Schedule 4B, as modified by section 38C(5)(d) of the 2004 Act provides that:

- ‘(2) A draft [plan] meets the basic conditions if—*
- (a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the [plan],*
 - (b).....*
 - (c).....*
 - (d) the making of the [plan] contributes to the achievement of sustainable development,*
 - (e) the making of the [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 [plan] does not breach, and is otherwise compatible with, EU obligations, and*
 - (g) prescribed conditions are met in relation to the [plan] and prescribed matters have been complied with in connection with the proposal for the [plan]”*

26. Basic Conditions (b) and (c), relating to the built heritage, apply to the examination of proposed neighbourhood development orders, but not to that of neighbourhood development plans.

⁶ Section 1 of the 1998 Act defines these as the rights and fundamental freedoms set out in Articles 2 to 12 and 14 of the European Convention on Human Rights, Articles 1 to 3 of the First Protocol to the Convention, and Article 1 of the Thirteenth Protocol, as read with Articles 16 to 18 of the Convention.

27. Regulations 32 and paragraph 1 of Schedule 2 of the General Regulations, has prescribed a further condition for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act, as follows -

'[the] making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects).'

28. Since 28th December 2018, the General Regulations, Schedule 2 paragraph 1, has prescribed a further Basic Condition, namely:

'In relation to the examination of neighbourhood development plans the following Basic Condition is prescribed for the purpose of paragraph 8(2)(g) of Schedule 4B to the 1990 Act—

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

29. It is to be noted that if a proposed neighbourhood development plan it is to be made it must meet all of the Basic Conditions specified in paragraph 8(2) - not just some of them.

30. Further, and importantly, the examination process is not intended to put the Examiner into the shoes of the '*qualifying body*' so as to usurp its function and re-make its decisions. The statutory remit of the Examiner is limited.

31. Thus, the examination process is less intrusive than that required in respect of a local development plan document. For instance:

'the remit of an examiner dealing with a neighbourhood plan does not include the requirement to consider whether that plan is 'sound' (as in section 20(5)(b) of the 2004 Act), so the requirements of 'soundness' contained in paragraph 182 of the NPPF⁷ do not apply to a neighbourhood plan. The Examiner of a neighbourhood plan does not consider whether that plan is 'justified' in the sense used in paragraph 182 of the NPPF. In other words, the Examiner does not have to consider whether a draft policy is the 'most appropriate strategy' compared against alternatives, nor is it for him to judge whether it is supported by a 'proportionate evidence base.'

⁷ The National Planning Policy Framework ('the NPPF').

- *Whereas under paragraph 182 of the NPPF a local plan needs to be “consistent with national policy” an examiner of a neighbourhood plan has a discretion to determine whether it is appropriate that the plan should proceed having regard to national policy.*
- *The basic condition only requires the examiner to consider whether the draft neighbourhood plan as a whole is in general conformity with the strategic policies in the adopted Development Plan taken together. I am not charged with determining in respect of each particular policy or element whether there is a tension between the local and neighbourhood plans, and if there is such tension in places, that may not be determinative of the overall question of general conformity.’⁸*

32. The concept of ‘*soundness*,’ referred to by Holgate J in this case refers to the text in a former edition of the NPPF. This text has now been superseded in the new edition of the NPPF published in December 2024 (as updated January 2025). This retains a section now referred to as ‘*Examining plans*’ and refers to the same four requirements for ‘*soundness*.’ However, paragraph 38 of the new edition of the NPPF contains a separate reference to the examination process, notably that neighbourhood plans must meet the Basic Conditions and other legal requirements before they can come into force which ‘*... are tested through an independent examination before the neighbourhood plan may proceed to referendum.*’

33. Thus, although the Examiner has a general discretion whether to recommend modifications to bring the neighbourhood plan into line with national policy if he finds points of departure, it is necessary to bear in mind that it would normally be expected that appeal decisions would follow current national policy where it conflicts with a local or neighbourhood plan. A neighbourhood plan that is at odds with national policy is in danger of becoming otiose. Unless the Examiner considers that there is evidence demonstrating good reason to depart from national policy in the neighbourhood, he would be expected to recommend that it be followed.

34. In essence, therefore, the role of the Examiner is to assess whether the draft plan is compliant with the Basic Conditions and other legal requirements. If in the event that the draft plan does not comply with the various statutory requirements, the Examiner

⁸ See *R(Maynard) v Chiltern DC* [2015] EWHC 3817 (Admin) at [13] per Holgate J.

then is obliged to consider whether it can be modified so that it does so comply. Other legal requirements include consideration of the NPPF and the NPPG. As the sections on the Legal and Statutory Frameworks draw extensively on the provisions contained in both the NPPF and the NPPG, no further reference will be made to either document at this stage.

The Report

35. The Examiner then produces a report, which contains one of three possible recommendations, namely, whether:

- ‘ (a) the draft plan is to be submitted to a referendum;*
- (b) the modifications specified in the report are to be made to the draft plan, and that the draft plan as modified is submitted to a referendum; or*
- (c) the proposal for a plan is to be refused.’⁹*

36. The recommended modifications can only be those that the Examiner feels are necessary to ensure that the draft plan complies with the Basic Conditions and the other relevant statutory requirements or are needed for the purpose of correcting errors. If the changes are substantial, then they may have to be the subject of a further round of consultation.

37. The further requirements of the Examiner, as defined in the 2012 Regulations, include considering whether the draft plan complies with the definition of a neighbourhood plan, and the provisions that can be made by a neighbourhood plan; and whether the draft plan is compatible with the European Convention on Human Rights. The Examiner may also make recommendations on whether the neighbourhood plan area for referendum should extend beyond the neighbourhood plan boundaries.

38. In this Report, I shall first address the European dimension and the question of human rights. I shall then assess the Basic Conditions, and then formal compliance with the provisions contained within sections 38A and 38B of the 2004 Act. Finally, I shall make recommendations as to the modification or amendment of the draft Policies. The modifications or amendments do not include minor updates to the contents and where

⁹ 1990 Act, Sch 4B, para 10(2), applied by the 2004 Act, s 38A(3).

necessary, Policy, paragraph, and page numbering. It is recommended that this is undertaken by the Parish Council and BDBC, where necessary.

European Law obligations

Strategic Environmental Assessment

39. I am still required to check that the making of the Neighbourhood Plan does not breach EU obligations. This means that I must consider whether there has been compliance with the SEA Directive and SEA Regulations.

40. Directive 2001/42/EC - known as the Strategic Environmental Assessment Directive - on the assessment of the effects of certain plans and programmes on the environment ('the SEA') - provides by Article 3(2) that an environmental assessment is to be carried out for plans prepared for town and country planning or land use. These set a framework for development consent of certain projects, or which in view of the likely effect on protected sites, have been determined to require assessment under the Habitats Directive. Where a neighbourhood plan determines the use of small areas at local level and makes minor modifications to other town and country planning or land use plans, they require such assessment only where Member States determine that they are likely to have significant environmental effects (by virtue of article 3(3)).

41. BDBC undertook a screening assessment of the draft Neighbourhood Plan in October 2024, to determine whether a SEA of the emerging Neighbourhood Plan should be screened into the SEA process, informed by consultation with the statutory consultees. The report concluded that the Neighbourhood Plan does require a SEA. Specifically, the screening opinion considers the impact of draft Neighbourhood Plan Policy S8 - Site Allocation. At that time, the allocation proposed approximately 18 homes. BDBC considered that 'the impacts upon the Silchester Conservation Area and heritage could be considerable and widespread and the potential significant environmental effects resulting from the Neighbourhood Plan have not already been considered and dealt with through a Sustainability Appraisal of the LPA's Adopted Local Plan. In light of the above an SEA will be required.'

42. I am satisfied that the BDBC's conclusions are appropriate and a strategic Environmental Assessment Report, dated March 2025, was submitted with the Draft Neighbourhood Plan in accordance with the regulations.
43. In response to a request for links to the relevant Neighbourhood Plan evidence base, the Parish Council has provided me with the SEA Scoping Report with responses from Natural England and Historic England.
44. In its representations to the Neighbourhood Plan, BDBC commented that the SEA had not considered reasonable alternatives. In a response to my question in respect of this comment, the authors of the SEA provided a detailed response on behalf of the Parish Council. This response explains that it considers that there are no reasonable alternative sites made available for consideration and that it was not considered reasonable to assess sites lying well beyond the settlement boundary, the allocation of which would be contrary to a range of strategic policies (national and local) for the neighbourhood area, and would therefore not have met any of the basic conditions.
45. It also highlights that it would not have been considered reasonable to assess different scales of housing growth, including the 'do nothing' option, when BDBC have provided the Parish Council with an indicative housing requirement for the parish.
46. BDBC agrees that the process undertaken by the Parish Council is in accordance with the regulations and national guidance. BDBC comment that the information contained within the Final Site Assessment Report could have helpfully been included in the SEA including details of the call for sites exercise that was undertaken, the site selection process, the alternatives to the preferred site and reasons for discounting them. In this respect I do not disagree with BDBC's conclusions.

Habitats Regulations Assessment

47. Article 6(3) of the Habitats Directive¹⁰ requires that any plan which is not directly connected with or necessary to the management of a protected site but is likely to have a significant effect thereon (meaning that such an effect cannot be excluded beyond

¹⁰ Council Directive 92/43/EEC of 21 May 1992.

reasonable scientific doubt on the basis of objective information), must not be the subject of agreement unless it has been subject to an ‘*appropriate assessment of the implications for the site*’. Further it must have been ascertained that it will ‘*not adversely affect the integrity of the site concerned*.’ If a neighbourhood development plan is assessed and found to cause harm to the integrity of a protected site, Article 6(4) enumerates some conditions under which a plan may exceptionally be approved where the plan must nevertheless be carried out for imperative reasons of overriding public interest.

48. Those obligations have been transposed into national law by Regulations 102, 102A and 103 of the Conservation of Habitats and Species Regulations 2010 (‘the *Habitats Regulations*’). Regulation 102 states:

- (1) *Where a land use plan—*
- (a) *is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and*
 - (b) *is not directly connected with or necessary to the management of the site,*
- the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives.’*
- (4) *In the light of the conclusions of the assessment, and subject to regulation 103 (considerations of overriding public interest), the plan-making authority... must give effect to the land use plan only after having ascertained that it will not adversely affect the integrity of the European site...’*

Regulation 102A states:

‘A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 102 or to enable them to determine whether that assessment is required.’

49. Regulation 107(1) of the Habitats Regulations then sets out definitions. ‘*Land-use plan*’ is defined to include a neighbourhood development plan. ‘*Plan-making authority*’ is defined to mean ‘*the local planning authority when exercising powers under Schedule*

4B to the TCPA 1990 (as applied by section 38A (3) of the 2004 Planning Act)'. The term '*competent authority*' is not defined by Regulation 107, but by Regulation 7 it includes (but not be limited to) a '*public body of any description or person holding a public office*'. It includes local authorities and Parish Councils.

50. Case law establishes that plans cannot be approved in reliance upon the duty to assess the planned projects as and when they come forward, and only approve them at that stage if found not to harm any protected site.¹¹ Consequently, for instance, the fact that there may be '*boiler plate*' language in the statutory development plan stating that projects cannot be approved if they would harm a protected site, cannot itself be sufficient to enable the plan to be approved without assessment, where it allocates or encourages particular development that is liable to harm a protected site.
51. There is no requirement for any formal decision to be made under the Habitats Regulations whether or not an '*appropriate assessment*' has been required. However, the Parish Council will be in breach of Regulation 102 of the Habitats Regulations if in fact a plan is likely to have a significant effect on a European site and has not been assessed.
52. BDBC prepared a screening opinion dated 10th October 2024. It states: 'There are not considered to be any significant impacts on any European Sites (or Ramsar sites) flowing from Highclere Neighbourhood Plan Area. Accordingly, an appropriate assessment is not required.' The reference to Highclere in the opinion is a minor typographical error. I do not disagree with BDBC's conclusions.

Human Rights

53. The Equalities Impact Assessment describes the impact of the Neighbourhood Plan upon the nine protected characteristics. In my view, the Neighbourhood Plan is not likely to lead to increased inequalities or discrimination in the plan area. I have identified that some of the policies are identified as having positive impacts on people who may experience disadvantage by virtue of their age or disability.

¹¹ Case C-6/04, *Commission v UK* [2006] Env. L.R. 29 at [51]-[56].

PART 3

THE EXAMINATION

Introduction and Background

1. Section 1 of the Neighbourhood Development Plan sets out the role of the Neighbourhood Plan, its Plan period, and the Neighbourhood Plan process. It is appropriate that this section is updated following the Examination to reflect the Regulation 16 consultation completed by BDBC, the Examination process, Referendum and ultimately the adoption of the Neighbourhood Plan.

The Neighbourhood Area

2. The Neighbourhood Plan sets out a brief synopsis of the Village location, Village Services and Facilities, and Silchester's demographic profile. The chapter also sets out a brief history of Silchester and its Village Character. I have no comments on this section.

Planning Policy Context

3. The Development Plan seeks to summarise national planning policy, strategic planning policy in the adopted Local Plan and associated Supplementary Planning Documents. It states that whilst the Neighbourhood Plan will be judged against the adopted Local Plan, the emerging evidence base for the new Local Plan has been taken into consideration, informing the Neighbourhood Plan.

Community Views on Planning Issues

4. This section highlights the resident's priorities who wish to ensure that the character of village is maintained, and that any development is both sustainable and proportionate. The need for development is accepted and be directed towards improving the long-term demographics of the village.
5. Each of these elements provides an important context for the Neighbourhood Plan, and I raise no objections to this approach.

VISION AND OBJECTIVES

6. Section 5 of the Neighbourhood Plan sets out the community's Vision, Objectives and Land Use Policies. The Vision seeks to ensure that it is thriving rural community with a wide representation of age groups. It supports sustainable and appropriate development in lifestyle and technology, creating opportunities for villages to bring back skills and wealth gathered from elsewhere whilst protecting the unique character of Silchester.
7. The progression from Issues to Vision and Objectives to Policies is an important part of the provision of the requisite evidence in support of the Neighbourhood Plan as required in the NPPG.
8. The Neighbourhood Plan lists one main, and nine other objectives which seek to positively translate and support the vision through to policies. To ensure that the objectives are positive, in accordance with the requirements of NPPF, are consistent with each other, and reflect the policies in the Neighbourhood Plan, I propose modifications which seek to ensure that the vision's positive approach is reflected in the objectives. I have also made amendments for clarity: -

Objective 5 - To ~~permit~~ support sustainable improvements ~~developments~~ to existing dwellings in the Conservation areas.

Objective 6: To ensure that ~~new housing~~ developments are built using best practice ~~to ensure~~ in energy efficiency and performance ~~sustainability~~.

Objective 8: To ensure that ~~any~~ developments ~~which takes place~~ complements and reflects the surroundings ~~and existing housing stock~~ to enhance the Parish and the quality of its built environment.

9. I am satisfied that the Vision and Objectives set out in Section 5 of the Neighbourhood Plan reflect the aspiration of the community as referred to in the Consultation Document. Its Vision and Objectives, taken as a whole, seek to support the sustainable growth of the parish whilst at the same time safeguarding the rural character of the village, the qualities of its environment and would contribute to the achievement of

sustainable development. I am also satisfied that subject to the adoption of the various recommended modifications, set out above, the Vision and Objectives will meet the Basic Conditions.

NEIGHBOURHOOD PLAN POLICIES

Format and Content

10. The construction and presentation of the Submission Version of the Plan is broadly clear. However, I find the policies and inset maps confusing and lack clarity given the extent of the layering, numbering schedule, and use of symbols on the plans. As an example, the Policies and Inset Maps identify the settlement boundary. However, there are symbols and numbers which, in places, obscure the line of the settlement boundary. In response to my concerns, the Parish Council has submitted an updated version of the Policies Map which provides more clear information on the extent of the policy areas. I recommend that this new approach is taken in finalising the referendum version of the plan.

11. The supporting text to the policies, in some cases, provides a limited amount of information, evidence and justification for the detail included within the policy. It is sometimes unclear as to the evidence basis on which the proposed policy relies. National Planning Practice Guidance advises (amongst other things) that policies in Neighbourhood Plans should be ‘concise, precise and supported by appropriate evidence.’ Furthermore, policies should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared. Where the underpinning evidence is not considered to be lacking or not robust, a modification is proposed to the relevant policy.

12. For accuracy, I propose modifications to paragraphs 5.1 and 5.3, and the Policies and Inset maps to ensure the Neighbourhood Plan is positively planned, is clear and accurate. I also recommend for clarity that the land use policies are separated into Section 6 – Planning Policies: -

5.1 The purpose of these policies is ~~both to set out the distinctive and local land use policies against which planning proposals are assessed~~ encourage planning applications

~~for proposals that and which the local community would like to support, and to discourage applications for development that the community does not consider represent sustainable development in the parish.~~

5.3 This is to ensure that full weight is applied to them in the determination of applications, ~~rather than merely referencing adopted Local Plan policy numbers, which by definition are currently out of date and to do so would risk reducing the weight attached to the SNP policy wording through that association.~~

The Policies and Inset Maps should be revised to ensure clarity and definition of the policy areas as set out in the Parish Council submissions to the Examination.

Include a new Section 6 heading entitled ‘Land Use Policies’ followed by the Land Use Policies and supporting text.

Policy SIL1: Silchester Settlement Boundary

13. The Neighbourhood Plan defines a settlement boundary on the Policies Map which is drawn closely around the built up area of the village and a proposed housing allocation where development will be supported. Outside the settlement boundary, development will only be supported where it is appropriate to a countryside setting and the policy sets out a list of circumstances where support may be given. Part C of the policy supports small scale residential development (up to four units) and rural exception sites responding to local need where it accords with a set of criteria.

14. In principle, the approach reflects the Adopted Local Plan policy SS1 – Scale and Distribution of New Housing which broadly supports housing within the Settlement Policy Boundaries whilst confirming that land outside the settlement Policy Boundaries is considered to be in the countryside. For consistency with the Local Plan, I recommend modifications to ensure that Settlement Boundary is amended to Settlement Policy Boundary. I also recommend modifications to delete generic references to ‘other policies in the development plan.’ National policy is clear that the plan is read as a whole and there is no need for unnecessary duplication.

15. In response to my questions, the Parish Council has confirmed that the basis for creating the settlement boundary at Silchester (there being no such boundary in the current Local Plan) was Inset Map 22 as set out in the Draft Policies Map booklet, with the addition of the extent of the developable land within the proposed site allocation at Little London Road. The Parish Council has also submitted a revised settlement boundary plan which I recommend should be included in this section of the Neighbourhood Plan. For consistency, the settlement boundary should be amended to align with the west side of Little London Road as detailed on the northern extent of the built up part of the village (Pamber Road and Little London Road) and other such village inset maps in the borough.
16. The examples provided in part B of the policy relates to examples relevant to the rural economy. Local Plan policy EP4 – Rural Economy defines the types of economic development which may be permitted in such locations. To ensure that the policy is consistent with the Local Plan I recommend modifications that are supported by BDBC to clarify that this part of the policy relates to the rural economy. However, Local Plan Policy EP4 is clear that all development proposals must be of a scale that is appropriate to the site and location in the countryside. The additional clarification proposed by BDBC applies equally to development outside the Settlement Policy Boundary.
17. Local Plan Policy SS6 (New Housing in the Countryside) sets out the exceptional circumstances where it is appropriate to allow new housing development in the countryside. It states that development in the countryside will only be permitted if the site is on previously developed land; is part of a rural exception scheme; is for the re-use of an existing building; involves the replacement of an existing dwelling; is small scale to meet a locally agreed need; is required to support an existing rural business; or is allocated by a Neighbourhood Plan. I make recommendations to ensure the Neighbourhood Plan is in broad conformity with Local Plan policy SS6.
18. The Parish Council in response to my questions, together with the supporting text clarifies that the policy is seeking to emphasise to decision makers that the NPPF's criteria for 'isolated homes in the countryside' is fully considered in reaching decisions on proposals for development in the countryside. The Parish Council has provided an example where the national policy for isolated homes in the countryside is

comprehensively included in the officer's report for a planning application for a dwelling in the countryside. However, on balance BDBC has approved the development. I recognise the local aspiration to elucidate national policy on isolated homes. However, it is not appropriate to fully duplicate the advice in the policy itself. I recommend modifications accordingly.

19. It also introduces a new term 'identified local need' for which no definition is given, and which differs from that detailed in Local Plan policy SS6. I recommend a modification to ensure the policy accurately reflects the Local Plan terminology.
20. The Neighbourhood Plan states that it supports the Velocity approach to rural development. The term may not be clear to all. For clarity I propose a modification which provides clarification to the Parish Council's intention.
21. To reflect the considerations above, I propose the following modifications to Policy SIL1 and its supporting text:

POLICY SIL1: SILCHESTER SETTLEMENT POLICY BOUNDARY

The Neighbourhood Plan defines a settlement policy boundary at Silchester, as shown on the Policies Map.

A) Development proposals within the defined settlement policy boundary will be supported. ~~provided they accord with policies of the development plan.~~

B) Development proposals for economic development outside of the defined settlement policy boundary will ~~only~~ be supported where ~~they are~~ the proposal is appropriate in use and scale to its location in the countryside setting, such as:

i) ~~where they encourage~~ agricultural, horticultural and forestry enterprises and farm diversification projects where this would be consistent with maintaining and enhancing the environment;

ii) ~~where they retain~~ retention of existing employment sites, and encouragement of improvements and redevelopments that will help maintain and enhance the environment, and contribute to local distinctiveness;

(iii) ~~support~~ local business development through the conversion of existing buildings, with particular encouragement of enterprises that have little adverse environmental impacts (e.g. design/research activities).

C) Small scale residential developments (up to 4 units), and other residential developments identified in Local Plan policy SS6 (or any successor policy) including ~~and~~ rural exception sites will be ~~permitted~~ supported where they are responding to an ~~identified~~ locally agreed need, and the proposal does not result in the development of isolated homes in the countryside as defined in national policy, ~~unless one or more of the following circumstances apply:~~

~~a) there is an essential need for a rural worker to live permanently at or near their place of work in the countryside;~~

~~b) the development would represent the optimal viable use of a heritage asset or would be~~

~~appropriate enabling development to secure the future of heritage assets;~~

~~c) the development would re-use redundant or disused buildings and enhance its immediate setting;~~

~~d) the development would involve the subdivision of an existing residential building;~~
~~or~~

~~e) the design is of exceptional quality, in that it:~~

~~i) is truly outstanding, reflecting the highest standards in architecture, and would help to raise~~

~~standards of design more generally in rural areas; and~~

~~ii) would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.~~

Delete Final sentence in Para 5.8 and first sentence of paragraph 5.9 and insert. ‘It is important that when considering proposals for isolated new dwellings in the countryside the tests set out in NPPF paragraph 84 are applied to the local circumstances in Silchester. NPPF paragraph 84 states (*insert the list of criteria a to e from the submitted policy*).

Replace final sentence of Para 5.9 ‘While not at the same scale as this plan, the aspiration of the Neighbourhood Plan is to keep the special character at the core of villages through compact development within those existing areas rather than out into the wider countryside.

Policy SIL2: Design Guidance and Codes

22. The Neighbourhood Plan includes the Silchester Design Codes and Guidance February 2025. The document establishes plan area design guidelines and codes that aim to provide design guidance to ensure that any potential development within the Neighbourhood Plan area is designed to a high quality, enhancing and complementing local distinctiveness, supporting good design practice and would contribute to a sustainable and thriving community. In the round the policy takes a very positive approach to design, and the approach aligns with the Design principles set out in national policy – section 12.

23. I propose modifications to the policy and supporting text to ensure consistency with national policy, consistency with the title of the Design Code and to provide sufficient flexibility and clarity required by national policy. As stated in paragraph 134 of NPPF, the document is part of the decision-making process and is not a policy document. In the interests of accuracy, the development proposals should have regard to the document.

24. I propose modifications as follows:

POLICY SIL2: Silchester Design Codes

Development proposals must be well-designed and respond positively to the character of the local area. To achieve this, as appropriate to their scale, nature and location, development proposals ~~must~~ should have full regard to the design guidance set out in the Silchester Design ~~Guidance and~~ Codes February 2025 (~~attached as~~ Appendix A). The design, scale, and appearance of development proposals ~~must~~ should be relevant to their location and ~~must~~ should preserve or enhance the significance of the conservation area and respect the rural character of the wider parish.

Amend ‘Westbury’ in paragraph 5.11 to ‘Silchester’

Amend final sentence of paragraph 5.11 to read: It therefore carries ~~the full weight of the development plan~~ in decision making in accordance with paragraph 134 of NPPF and is not subordinate or supplementary guidance carrying lesser weight.

Policy SIL3: Locally Important Views

25. The Neighbourhood Plan identifies 14 locally important views in the parish. The Neighbourhood Plan defines the direction of views more closely in Appendix B, and on the policies map.
26. The supporting text states the existing Silchester Village Design Statement from 2007 refers to “Treasured Views” which have been used as the starting point for this policy, with the community taking a number of photographs around the areas described, which showcase both the historic past of the parish and its tranquil, rural setting of today. BDBC in its representations state that the Silchester Conservation Area Appraisal forms part of the evidence base for this policy. I also note the Silchester Design Code provides some guidance on important views.
27. I am satisfied that the evidence in Appendix B provides sufficient evidence for the justification of the chosen key views. Having seen and appreciated these views on site, I am satisfied with the methodology for their identification.
28. A representation seeks to include a treasured view from the ‘Romans Hotel’ to the village. In response to the submission the Parish Council has stated, ‘Whilst the former “Romans Hotel” is an impressive building, noted in the Conservation Area appraisal as designed by Norman Evill, a London architect and possible student of Edwin Lutyens, it is now privately owned, having been converted into residential housing and is now gated and not publicly accessible. Identifying a view from this location (or to this location) was therefore not possible.’ I am not required to recommend modifications to the policy to ensure that it meets the Basic Conditions. The Parish Council has provided sufficient clarity on their decision-making process which suggests that the identification of Romans Hotel would be inconsistent with its methodology.
29. There are various parts of the Neighbourhood Area which are both highly valued and vulnerable, namely the Silchester Common SSSI, various SINCS, and Ancient Woodland. The neighbourhood planning group have confirmed that they used the BDBC Local Plan Update evidence base for the submission version of the Plan: BDBC Valued Landscape Study 2023 & Valued Landscapes Study Figure 1 (2023). However,

these documents are not detailed in the Neighbourhood Plan and do not form part of the evidence base accompanying the Neighbourhood Plan submission.

30. NPPF at paragraph 187 states that planning policies should contribute to preserving and enhancing our valued landscapes. The BDBC Valued Landscape Study identifies three ‘Character Areas’ of differing landscape character across the Neighbourhood Plan Area. These are identified as Parcel F – Pamber Forests and Heaths; Parcel E2 - Little London to Mortimer West End Lowland; and Parcel L3 - London North. In respect of Parcel F, the Study concludes that given the extensive ancient woodland and intact areas of heathland, the overall condition and perceptual qualities of the parcel are considered to be good. In conclusion, Parcel F ‘Pamber Forests and Heath’ is judged to be suitable for designation as a Valued Landscape.

31. The study forms part of the evidence base for the Local Plan Review. It has not been consulted upon or included in the Neighbourhood Plan. The study concludes that parts of the Neighbourhood Plan Area should be recognised as Valued Landscape whilst other areas are less suitable for local designation. I therefore have to conclude that the requirement for development proposals to preserve and enhance the landscape character across the neighbourhood plan area as a whole is inconsistent with the local evidence base and no other evidence has been submitted by the Parish Council with the Neighbourhood Plan. I therefore recommend modifications accordingly to Policy SIL3 as follows:

The Neighbourhood Plan identifies Locally Important Views as shown on the Policies Map and Appendix B.

Development proposals should ~~preserve or enhance~~ not have an unacceptable detrimental impact on the local character of the landscape and through their design, height and massing should recognise and respond positively to the various Locally Important Views identified on the Policies Maps. Proposals which deliver opportunities to better reveal locally important views will be supported.

Policy SIL4: Retrofitting in the Conservation Area

32. The policy seeks to support proposals that improve its energy efficiency, carbon emissions, or its general suitability, condition, and longevity of existing buildings within the Conservation Area. It proposes that significant weight is attached to those benefits. Proposals to the exterior of a building must demonstrate that the heritage preservation has been balanced with the visual impact on the surrounding Conservation Area.
33. National policy at paragraph 204 of NPPF is clear. A Conservation Area is an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. National Policy requires local planning authorities, amongst other criteria, to preserve or enhance the character of a Conservation Area and to take account of the desirability of sustaining and enhancing the significance of the heritage asset.
34. Historic England recognise in its advice¹² that mitigating climate change and conserving historic buildings are compatible goals. However, achieving these goals can be challenging, particularly for local planning authorities when determining applications for planning permission and/or listed building consent. I acknowledge and recognise the key aspirations to secure higher standards of energy efficiency and sustainable construction so as to encourage the move to a lower carbon future. However, the proposed weighting to be given to proposals which affect an historic asset, including the setting of the Conservation Area, is not consistent with advice provided in NPPF or indeed the advice referred to in the supporting text provided by Historic England.
35. A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. I support BDBC's conclusion that the policy includes terms which are ambiguous and unclear. It is not clear what is meant by considerable improvements to energy efficiency, carbon emissions, and/or general suitability, condition, and longevity of existing buildings. Moreover, Historic England advocates small scale proposals as part of a whole building approach, prioritising

¹² Delivering on Climate Change Action and Heritage, Historic England, updated January 2025.

interventions with are proportionate, effective, and sustainable. For the above reason, I recommend the following modifications to the Neighbourhood Plan as follows:

~~Proposals that seek to provide solutions that save energy and reduce carbon emissions which would result in considerable improvements to energy efficiency, carbon emissions and/or general suitability, condition and longevity of existing buildings in the Conservation Area should prioritise interventions that are proportionate, effective and sustainable whilst preserving or enhancing the character of the Conservation Area. (as shown in the Policies map) will be supported, with significant weight attributed to those benefits. Where exterior building alteration is required, the proposals must demonstrate that heritage preservation has been balanced with energy efficiency to avoid adverse visual impact on the surrounding conservation area.~~

~~Para 5.20 The current planning system doesn't adequately ensures that extensions, and changes to houses are energy efficient, and makes energy improvements in the conservation area very difficult. The Neighbourhood Plan therefore seeks to try to ensure that energy efficiency measures are taken into account during any building works, and to promote a positive approach to energy efficiency measures in houses in the Conservation Areas and listed buildings which reflects the need to ensure development proposals preserve or enhance the character of the Conservation Area.~~

Para 5.21 20% of total UK carbon emissions comes from existing (rather than new build) homes (source: ACAN Toolkit) but heritage and architectural constraints can make this challenging, particularly for residents living in listed buildings or properties located within the two areas of the Conservation Area in Silchester, to make changes. This policy acknowledges the need to ~~balance the~~ ensure the preservation of heritage assets is compatible with energy efficiency and seeks to encourage residents in conservation areas to consider modern methods of retrofitting which can minimise adverse visual impact.

Delete first sentence of paragraph 5.22.

Policy SIL5: Energy Efficiency

36. Policy SIL5 Energy Efficiency seeks to ensure that sustainability is embedded within new development, contributes to the response to climate change and reduces energy use. The policy is in five parts. Clause A requires planning permissions for new or refurbished buildings to demonstrate that the buildings will perform as predicted and requires any corrective action identified in a Post Occupancy Evaluation Report to be implemented. Clause B states that buildings to be certified to Passivhaus or equivalent standard will not be required to comply with Clause A. Clause C states all development should be zero carbon ready. Clause D requires the submission of a ‘sustainability statement’ to demonstrate compliance with the policy and applicants are directed to the Cotswold Net Zero Toolkit. Clause E requires all major development proposals to be accompanied by a Whole Life Cycle Carbon Emissions Assessment.
37. National policy states that the planning system should support the transition to net zero by 2050 and take full account of all climate change impacts (NPPF para 161). NPPF also states that new development should be planned for in ways that ‘help reduce greenhouse gas emissions, such as through its location, orientation, design. Any local requirements for the sustainability of building in plans should reflect the Government’s policy for national technical standards.’ Additionally, the ministerial statement dated 13th December 2023, reiterates the changes made to Buildings Regulations and further changes are proposed to secure new homes standards. The ministerial statement does not expect plan makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations or requirements relating to the construction or performance of new dwellings in neighbourhood plans.
38. The Parish Council has referred me to the made Ringwood Neighbourhood Plan 2023 located in the Forest of Dean District Council which includes a similar approach to Policy SIL5. The Parish Council has also referred me to a July court of appeal judgment: *R (Rights Community Action Ltd) v Secretary of State for Housing, Communities and Local Government*.¹³ I am also aware of other Examination Reports for Neighbourhood

¹³ EWHC 1693 (Admin).

Plans in the BDBC area including the Burghclere Parish Neighbourhood Plan 2011 to 2029 and its 2023 examination report.

39. It is considered entirely appropriate for the Neighbourhood Plan to encourage zero carbon homes and high levels of energy efficiency. This is consistent with Local Plan policy EM10 1 f) – Delivering High Quality Design. It is also appropriate to signpost developers to tools to assist with the planning, design, and delivery of low carbon developments in the parish. The Neighbourhood Plan includes reference to the Net Zero Carbon Toolkit, which should be correctly identified as being prepared by Levitt Bernstein, Elementa, Passivhaus Trust and Etude and commissioned by West Oxfordshire District Council, in collaboration with Cotswold District Council and Forest of Dean District Council. The guidance is aimed at small and medium sized house builders.
40. Details of the Post Occupancy Evaluation Report for all new and refurbished buildings is detailed in Appendix D. The premise of the requirement is that the planning permission would be subject to a planning condition requiring the Post Occupancy Evaluation Report. If identified, any reasonable corrective action to achieve the standards set out in the planning application, would need to be implemented for the condition to be discharged.
41. Planning conditions can enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission. I have sympathy with BDBC's comments: it is unclear how the approach would be implemented following the completion of the development, whether it is viable and the validity of the Neighbourhood Plan determining planning conditions to be applied to planning consents. Indeed, I am not clear how feasible it would be for the applicant to remedy or implement any corrective action following 12 month's occupancy of the dwelling or building.
42. I note that the appeal judgment to which the Parish Council has referred also states 'a LPA should provide a well-reasoned and robustly costed justification for any such policy which meets a number of criteria. Development must remain viable, the effect of the policy on housing supply and affordability must be considered and the additional

requirement should be expressed as a percentage uplift of a dwelling's 'target emissions rate.' Although I note the intention of the Post Occupancy Evaluation Report, the feasibility and viability of the approach have not been tested for all new and refurbished buildings in Silchester.

43. In respect of Part C, the requirement to ensure consideration of resource efficiency at the outset suggests an approach which is contrary to the energy hierarchy. The energy hierarchy seeks firstly to minimise the energy demand of buildings through passive design measures (optimising the orientation and mass of buildings, and appropriate window placement to maximise opportunities for solar gain and minimise winter cold wind heat loss etc). Secondly, the energy hierarchy seeks to maximise energy efficiency through design measures. The policy as worded in Parts C and D appears to reorder the widely accepted energy hierarchy.
44. Part E of the policy requires major developments to be accompanied by a Whole Life Cycle Carbon Emissions Assessment. This is in contrast to the supporting text at paragraph 5.30 which states that the Clause applies to all development proposals that are not householder applications. I note this approach is adopted in the London Plan 2021 for developments that are referred to the Mayor e.g. developments over 150 homes. The Parish Council has not demonstrated that such an approach is appropriate and viable for developments for major developments in Silchester.
45. Paragraph 5.31 states the requirements for a Whole Life-Cycle Carbon Emissions Assessment will be added to the BDBC validation checklist. It is not within the gift of the Neighbourhood Plan to determine the council's validation checklist. I recommend modifications to remove paragraph 5.31.
46. I recommend modifications to encourage zero carbon development, an approach which supports the Energy Hierarchy and encourages certification to PassivHaus standards where it is appropriate to the scale, nature, and location of the development and where viable. I also make recommendations to support the local aspiration to accelerate interventions which address climate change targets so that it is consistent with national policy and ultimately sustainable development. I recommend the following modifications:

~~A. All planning permissions granted for new and refurbished buildings should demonstrate that~~

~~they have been tested to ensure the buildings will perform as predicted and will include a planning condition to require the provision of a Post-Occupancy Evaluation Report to the Local Planning Authority within a specified period, unless exempted by Clause B. Where the Report identifies poor energy performance and makes recommendations for reasonable corrective action, the applicant must demonstrate that those actions have been implemented before the condition will be discharged.~~

~~€.~~ A. In accordance with the Energy Hierarchy, where possible, all development should be 'zero carbon ready' firstly secured by design to minimise the amount of energy needed to heat and cool buildings through landform, layout, building orientation, massing, and landscaping. Secondly, consideration should be given to ~~resource~~ energy efficiency at the outset and thirdly whether existing buildings can be re-used as part of the scheme to capture their embodied carbon.

~~B. All Buildings proposed~~ Where relevant to the scale, nature, and location of the development, and where feasible, development proposals are encouraged to be certified to a Passivhaus or equivalent standard with a space heating demand of less than 15KWh/m2/year. will not be subject to the provisions of Clause A.

~~D. Where relevant to the scale, nature and location of the development, a Sustainability Climate Change Statement will be submitted to demonstrate compliance with the policy (except for householder applications). Applicants are directed to the Cotswold Net Zero Toolkit1 for guidance on matters to be addressed at pre-planning and initial design stage. The statement will demonstrate how opportunities to reduce the energy demand, energy use intensity (EUI) of buildings over the plan period have been maximised in accordance with the energy hierarchy. Designers shall evaluate the operational energy use using realistic information on the intended use, occupancy and operation of the building to minimise any performance gap.~~

~~E. All planning applications for major development are also required to be accompanied by a Whole Life Cycle Carbon Emission Assessment, using a recognised methodology, to demonstrate actions taken to reduce embodied carbon resulting from the construction and use of the building over its entire life.~~

Amend the supporting text accordingly to include an accurate reference to Net Zero Carbon Toolkit, prepared by Levitt Bernstein, Elementa, Passivhaus Trust and Etude and commissioned by West Oxfordshire District Council, in collaboration with Cotswold District Council and Forest of Dean District Council.

Delete paragraph 5.31.

Policy SIL6: Housing Mix and Type

47. Policy SIL6 seeks to ensure that proposal for residential development for five or more dwellings should comprise 50% one-to-three-bedroom homes. All development proposals should be constructed to M4(2) or M4(3) accessible and adaptable homes.
48. NPPF at paragraph 61 supports an appropriate mix of housing type for the local community. The policy would broadly accord with national policy.
49. Local Plan policy CN3 - Housing Mix for Market Housing sets out a series of criteria to address local requirements for a mix of housing. The Local Plan policy applies to all developments although the supporting text at paragraph 5.29 recognises that the policy might not apply to smaller developments of less than three new dwellings. In response to my questions, the Parish Council has stated that policy SIL6 should be amended so that it is consistent with the Local Plan.
50. NPPF at paragraph 135 seeks to create places that are safe, inclusive, and accessible and which promote health and wellbeing with a high standard of amenity for existing and future users. NPPF footnote (51) states that planning policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties.
51. The Local Plan provides for 15% accessible and adaptable homes to enable people to stay in their homes as their needs change. In its supporting text the Local Plan comments there is a requirement for homes with higher levels of accessibility and adaptability.
52. The Parish Council has commented that the parish has an ageing population, and the provision of accessible and adaptable homes would reduce the need for age restricted

housing and enable residents to stay in their homes for longer. However, national policy requires detailed justification for the optional Building Regulation requirements set out in M4(2) and M4(3) to be applied to all developments. I recommend modifications to ensure the policy is consistent with national policy, the Local Plan and contributes to the achievement of sustainable development. Amend Policy SIL6 – Housing Mix and Type as follows: -

A) Proposals for residential development will be expected to provide a mix of dwelling types and sizes to address the nature of local needs and contribute to the objective of creating a mixed and balanced community. To achieve this objective, provision should be made for smaller dwellings (1 bedroom - 3 bedroom) which should comprise 50% or more of the total in schemes of ~~five~~ three or more dwellings.

B) ~~All~~ Development proposals ~~should be~~ are encouraged to be delivered as accessible and adaptable dwellings in accordance with Building Regulations M4(2) or M4(3), unless evidence can be provided to demonstrate that such provision would be impracticable or render the scheme unviable.

Policy SIL7 – Affordable Homes

53. The policy requires housing developments of five or more dwellings on sites of more than 0.5 ha and all developments of 10 dwellings or more to deliver 40% affordable housing. The mix of affordable housing is to be determined by the Registered Provider with priority given to those with a local connection.
54. NPPF is clear at paragraph 65 that affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas (where a policy may set a lower threshold of five units or fewer). The parish of Silchester is not in a designated rural area and therefore I make recommendations to ensure the policy is consistent with national policy.
55. The provision of 40% affordable housing aligns with Local Plan policy CN1 affordable housing for major development sites. I note the District Council's request to stress the preference for social housing. I also note Local Plan Policy CN1 requires the 'tenure split of affordable homes will be 70% rented and 30% intermediate products'. The policy as drafted is ambiguous and inconsistent with the Local Plan and national policy.

56. The delivery of affordable housing is secured through the Planning Acts, planning permissions and associated obligations. I recognise that the delivery of affordable housing also overlaps with decisions by BDBC as Local Housing Authority. Each organisation will have its own priorities and NPPF is clear that planning policies should specify the type of affordable housing required. I note the Parish Council's comments that it does not wish the policy to be overly burdensome in setting a prescriptive mix. However, I have no evidence before me which suggests these decisions should be delegated solely to the Registered Housing providers.
57. The policy also seeks to ensure that priority is given to those with a local connection. The definition is limited to a verified residency, family, or employment connection to Silchester. I recommend modifications to ensure the policy is consistent with national and local plan policies, BDBC's housing allocation policy, and is amended to remove ambiguity and ensure clarity for decision makers. My recommendations are as follows:
- A) ~~Proposals for housing developments of 5 or more dwellings on sites of more than 0.5 ha and~~ All developments of 10 or more dwellings, must deliver on site a minimum of 40% affordable housing.
- B) The tenure split, size, mix and type of affordable housing, ~~should be determined by the Registered Provider but should be a~~ including affordable home ownership, affordable rent and social rent, ~~to~~ should reflect local need as identified in an update to date housing needs assessment in consultation with the Parish Council, BDBC and Registered Providers.
- C) Priority for allocation of affordable housing will be given to those with a verified local connection to Silchester which is defined as through residency, ~~family or~~ occupation or family residence in cases of giving / receiving care or support employment connections to Silchester.

Policy SIL8 – Site Allocation at Little London Road

58. Policy SIL8 proposes the allocation of 2.4ha for up to 26 homes. Part of the allocation (1.05ha) will remain outside the settlement boundary, undeveloped (SEA paragraph 1.12) and identified as a public open space. An indicative scheme illustrates 26 units to the south of the proposed public open space. The indicative scheme and policy include a custom build plot with a separate driveway served from the housing development, a

landscaping scheme and curtilage. This custom build plot was added after the call for sites process, in response to a request from the landowner. Access to the site is proposed to the east of Little London Road.

Indicative Housing Requirement

59. NPPF (paragraph 69) requires strategic policies to set out a housing requirement for designated neighbourhood areas. Paragraph 69 cannot be satisfied as the adopted Local Plan predates the national requirement and therefore does not set out a housing requirement figure. Where it is not possible to provide a requirement figure for the neighbourhood area, BDBC can provide the Parish Council with an indicative housing figure when requested. I am required to test the indicative housing figure. NPPF (paragraph 70) states that the figure should take into account ‘factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy’.
60. BDBC’s Local Plan Update Regulation 18 consultation documents contain housing requirement figures for settlements including Silchester. Paragraph 3.7 of the Neighbourhood Plan states that a figure of 15 dwellings would be needed in Silchester to meet its housing requirements over the plan period to 2040.
61. The Government has published a revised NPPF and housing calculation methodology which increases the borough wide housing requirement from 828 to 1,127 homes per year (37% increase). It is clear that the borough wide housing figures on which the indicative figure for Silchester parish was established and published in the Regulation 18 version of the Local Plan Review, is now substantially out of step with national policy. The current Local Plan review is ongoing and BDBC have published a new Local Development Scheme to produce a Local Plan which seeks to accommodate the new housing requirements. It will be for BDBC, through its Local Plan Review, to develop a borough wide housing strategy which meets the updated identified housing need and identify an updated, indicative figure for Silchester parish.
62. I note the Parish Council has indicated in its response to me that ‘Silchester has an identified requirement in the emerging Local Plan for 25 homes’. BDBC has confirmed that this figure reflects a proposed new growth strategy set out by the Council in its

draft proposals for delivering the new increased housing requirement in the 2024 NPPF. This strategy will be published for consultation in November 2025 until January 2026. These documents propose new housing requirements for the rural settlements, taking into account the settlements' 'share' of the new, increased standard method housing requirement as their starting point. The proposed uplift from the indicative housing requirement of 15 homes to 26 dwellings in Silchester parish represents an increase of 73 percent.

63. Importantly, I can only give limited weight to the Regulation 18 Local Plan Review policies and any emerging Local Plan updates as the draft plan is at a very early stage in its development, has yet to been subject to public consultation and an examination of the submitted plan has not yet been commenced.
64. Neighbourhood Plans can allocate sites for more housing than set out in strategic policies in the local areas. Additional development in Silchester, beyond that adopted in the existing or emerging plan, can be supported where it would be consistent with national policy, is in conformity with the strategic policies in the adopted Local Plan and supports sustainable development. Such an approach is consistent with case law and planning practice guidance.¹⁴
65. NPPG states that neighbourhood planning bodies are encouraged to plan to meet their housing requirement and where possible exceed it.

'Neighbourhood Plan can allocate additional sites to those in a local plan (or spatial development strategy) where this is supported by evidence to demonstrate need above that identified in the local plan or spatial development strategy.' (NPPG Paragraph: 044 Reference ID: 41-044-20190509).
66. In providing for housing beyond the indicative figure, the Neighbourhood Plan states that the Parish Council has taken a pragmatic approach in seeking to allocate a single site which is 'modestly' in excess of the Council's advice to accommodate 15 dwellings. I note that this in part is seeking to pursue a wider demographic profile in the parish. I also note there are twelve households on the housing register needing

¹⁴ High Court Judgment of *Gladman Developments Limited v Aylesbury Vale District Council & Winslow Town Council* [2014] EWHC 4323 (Admin), 18 December 2014.

housing in Silchester. There are positive effects of a development that would, in part, support the opportunity for these and other households to find suitable housing or downsize; issues that were also identified in the Residents' Consultation Survey.

67. Community engagement with Silchester residents suggests a more moderate approach to housing development. The residents' survey reports that 28 percent of those who responded to the survey support proposals for schemes greater than 25 homes. The majority of those who responded support smaller schemes than currently proposed - 56 percent would seek proposals for less than 15 homes.

68. BDBC's Annual Monitoring Report states that planning permission has been granted for 413 self-build plots. Under the provisions of the Self Build and Custom Housebuilding Act 2015, local authorities are required to give enough permissions to meet the identified demand detailed on the Self Build Register. I can conclude that the Borough has met its requirement for self-build plots and I have no evidence to support the need for an additional self-build or custom build plot in Silchester parish.

Adopted Local Plan – Spatial Strategy

69. Local Plan Policy SS1 makes provision for 15,300 homes over the plan period by a series of opportunities set out in the policy. The policy confirms that sites outside the settlement boundaries are considered to lie in the countryside (criteria a). Policy SS1 also supports the delivery of new homes through Neighbourhood Plans in line with Policy SS5 (Neighbourhood Planning).

70. Local Plan Policy SS5 seeks to deliver sustainable growth in the borough's smaller settlements and identifies the minimum number of dwellings to be provided in five named settlements. Policy SS5 also supports a further 150 homes to be identified by delivery of at least ten homes within or adjacent to other smaller settlements with defined Settlement Policy Boundaries. At the time of the adoption of the Local Plan thirteen settlements in the borough had a Settlement Policy Boundary. Silchester did not have a Settlement Policy Boundary and as such does not benefit from the provisions in Policy SS5 to identify sites and opportunities for further housing development.

71. At the present time as a matter of fact and law the Parish of Silchester has no defined Settlement Policy Boundary. The reason for this is not clear in the Local Plan but it may be because the area of the Parish is not of a sufficient scale for this to have been considered, as necessary. The draft Neighbourhood Plan now seeks to address this perceived deficiency.
72. However, for the purposes of this Examination the relevant procedures must be undertaken in that the Parish Council and BDBC must consider the recommendations that I have suggested. The draft Neighbourhood Plan will be subject of various edited changes. Once finally accepted by BDBC and Parish Council, a referendum should take place.
73. In essence, therefore, the Neighbourhood Plan remains in draft until it is adopted and finally 'made.' That being so, as a matter of principle, unless and until the Neighbourhood Plan is made, there is no defined Settlement Policy Boundary. Thus, I do not consider in the circumstances that I am legally able to embark upon a two staged process, i.e. first to define the settlement policy boundary, and then go to stage 2 and apply Policy SS5.
74. I note that BDBC has not raised an objection in respect of the principle of allocating further housing development in Silchester being contrary to the strategic policies in the Local Plan. The Site Assessment Report Stage 1 criteria states at paragraph 2.2 that only land that 'lies within or adjoining the settlement boundary would be considered suitable in principle by being consistent with national policy and with adopted Local Plan policy for managing the growth of settlements and protecting the countryside'.
75. Neighbourhood Plan Policy SIL1 in its supporting text states that the settlement boundary is intended to distinguish between the built-up area of the main settlement in the Parish and the surrounding countryside in order to manage development proposals accordingly. It defines where and how proposals in both the village and the wider countryside locations of the parish will be judged. I have made recommended modifications that the Settlement Policy Boundary is drawn to the western side of Little London Road so that it is consistent with other parts of Silchester's boundary and Settlement Policy Boundaries elsewhere in the borough.

76. It is notable that to the north, east and south of the built part of the allocation is defined in policy terms as ‘in the countryside.’ The proposed public open space lies outside the settlement boundary and its function as a public open space is yet to be determined. I note three quarters of those residents who responded to the residents’ survey commented that recreational facilities in the parish were sufficient.
77. I am of the view, following my site visit, that the site proposed for housing is divorced from the main built-up part of the village to the north. The proposed housing is separated from the built-up area of settlement by a distinct wooded area and agricultural land /paddock. Earlylands and Hydes Platt forms a distinct built-up area on the western side of Little London Road with land to the east forming an extended area of countryside. This is a view shared by BDBC in its Strategic Housing and Economic Land Availability Assessment (SHEELA) published by BDBC in December 2023. It notes in respect of this site: ‘the disposition of the buildings would have a poor relationship to the existing built-up area of Silchester as housing would be surrounded on three sides by open space. This scheme would not be a rounding off or simple extension of the existing built-up area.’
78. I have also been mindful of the Planning Inspector’s view in reaching a decision to refuse a planning application in principle for a significantly smaller scheme of five to nine dwellings on part of the proposed allocation site (Appeal reference APP/H1705/W/21/3272407 dated September 2021). She described the development of part of this site as ‘appearing as an incongruous domestic enclave on the eastern side of the road.’
79. Part of the site allocation, not included within the proposed settlement boundary, includes the public open space which is closer to the southern extent of the village. The designation of a public open space between the built-up part of the village and the housing development does not alter my view that the housing development is separated from the settlement edge. These considerations are in contrast to the views expressed in the SEA (paragraph 1.14) that states the allocated land for housing development adjoins the proposed boundary on the southeastern edge of the village. I must therefore conclude that the site allocation for housing is not consistent with the Local Plan’s

strategic policies SS1 and SS5 and the Parish Council's own criteria to support the allocation of further development where it is within or adjacent to a settlement boundary.

Sustainable Development

80. In respect of understanding whether the Neighbourhood Development Plan contributes to the achievement of sustainable development, it is necessary to be satisfied that the site assessment process from which the site allocation emerges is robust. NPPG requires neighbourhood development plans to '*be supported by appropriate evidence.*'¹⁵
81. Therefore, I now turn to the Sites Assessment process. Despite reporting that a site assessment report accompanied the submission to support the Neighbourhood Plan (paragraph 5.46) the assessment was not included in the Regulation 16 consultation I am acutely aware that stakeholders and interested parties have not had the opportunity to comment or respond to this report. A final version of the Site Assessment Report dated February 2025 has been submitted to me following a request to ensure I had access to documents that have informed the Neighbourhood Plan.
82. The Sites Assessment Report succinctly describes two stages: Stage 1 comprises a 'long list' of four potential housing development sites derived from the SHEELA published by BDBC in December 2023, and a call for sites undertaken by Silchester Neighbourhood Plan Steering Group between May and July 2024. The report states that the call for sites resulted in four sites, one being a duplicate of a SHELAA site.
83. Stage 2 Assessment of the Parish Council highlights three process points. Firstly, it states that a Strategic Environment Assessment (SEA) has been completed and can be found separately to accompany the Neighbourhood Plan. Secondly a community consultation was completed in September 2024 and a finally a deliverability assessment had been completed.
84. The purpose of carrying out a site assessment is to provide the evidence that the sites selected for allocation are the most appropriate, that they are in the most sustainable

¹⁵ NPPG Neighbourhood Planning, Paragraph: 041 Reference ID: 41-041-20140306.

location, they are in conformity with the strategic policies of the Local Plan and that there is a good prospect that they will be developed. I have significant concerns regarding the site assessment process as detailed in the Site Assessment Report.

85. NPPG confirms that a site assessment, such as a SHELAA, is an important source of evidence to inform plan making and should be used proportionately in Neighbourhood Planning. The relevant document is BDBC's SHEELA report, specifically Appendix 5 – Sites outside Settlement Boundary published in December 2024. This report assesses the suitability, availability, and achievability of land at Little London Road (Site ref SIL001). BDBC's analysis concludes: 'This site is available and is likely to be achievable. However, due to its location in the countryside, its development would not be in line with the borough's current planning framework.'
86. The analysis of the site in the Parish Council's Site assessment report is limited to a set of 'remarks' at Stage 1 and a conclusion Stage Two that the site assessment process resulted in the single proposed site being taken forward for inclusion in the draft plan with reference to the SEA.
87. It is important to note that the SEA evidence supporting the Neighbourhood Plan does not address the other overarching objectives of achieving sustainable development: the social objective to support strong, vibrant, and healthy communities and the economic objective to build a strong, responsive, and competitive economy. The SEA has a defined scope. The purpose of the SEA is to describe and evaluate the likely significant effects on the environment of implementing the plan or programme and reasonable alternatives taking into account the objectives and geographical scope of the plan or programme (regulation 12(2)).
88. As such, the SEA on its own, cannot be a substitute for a balanced consideration of whether the Site Allocation contributes to the achievement of sustainable development or meets the Basic Conditions.
89. In my view, the site assessment does not fully and appropriately consider the impacts of the development on the broader principles of sustainable development, whether the

development accords with the strategic policies in the Local Plan and specifically concerns raised on the specific constraints relevant to the site.

Other considerations

90. The Local Plan at para 4.65 states ‘Each of the policies in the Local Plan are strategic in nature and therefore all Neighbourhood Plans need to be in conformity with them, unless there is an agreed and significant local justification for an amended approach.’ BDBC highlights the adverse impact of the proposal on the setting of the Conservation Area and important vistas across the site. In its Regulation 16 response it sets out detailed concerns in terms of its landscape character impacts.
91. The relevancy of the Planning Inspector’s decision on a planning appeal for a Permission in Principle application for a scheme of five to nine dwellings (APP/H1705/W/21/3272407) is clear. The appeal was dismissed in part due to the adverse impacts on the Conservation Area and rural character of this part of the settlement. The Parish Council has argued that as the development is defined as ‘minor’ and the Planning Inspector did not have the benefit of the technical evidence now presented on behalf of the landowners. I note, the Inspector had the benefit of a Preliminary Heritage Statement, prepared by Pegasus Group, and an appeal statement which addressed BDBC’s reasons for refusal including the landscape impacts. I also note the current allocation is for a substantially larger site and a greater scale of housing development.
92. I note the SEA Report concludes that the development would have a neutral impact on heritage and landscape and any adverse impacts have been mitigated by policy. The SEA comments: ‘The principle of developing the land will have an adverse landscape effect, but this will be lessened by preserving the open space between the scheme and the existing built-up village edge to the north.’ However, the SEA also notes the landowner’s landscape assessment and concludes that the impact can be mitigated to the extent that it is not significant through the use of the design codes, a defensible boundary between the developable area and the countryside and the use of a Landscape Visual Impact Assessment.

93. In considering the impact upon the local landscape character areas, I also have had regard to the report prepared on behalf of the landowners. It concludes: ‘The sites low value combined with its medium susceptibility to accommodate a small amount of change, is considered to be of medium to low sensitivity. Development in the southwestern part of the site, will likely be perceived as an extension to Hydes Platt to the west and be effectively screened by existing vegetation on the site’s boundaries. Development of the land will have an adverse landscape effect, but this will be lessened by preserving the open space between the scheme and the existing built-up village edge to the north.’ It goes onto comment: ‘Only viewpoint 1’s transitional road users exiting Silchester’s conservation area on Little London Road and those frequenting Silchester Farm and Shop, viewpoint 4 are considered likely to experience a greater level of effect born of the development proposals at a medium adverse magnitude’.
94. Following my site visit and with consideration to the views and evidence put forward, including the proposed mitigation measures, I have reached similar conclusions to BDBC and the Planning Inspector, as stated above. The development would significantly and adversely change the mostly undeveloped and low-key character of the land in this part of Silchester.
95. I would additionally conclude that the introduction of an adopted road to the standards required for this scale of development would introduce a wide road, kerb radii and footpaths with lighting which would be harmful to this important southern approach to the village. I consider that the allocation would be contrary to national policy and Local Plan Policy EM1 Landscape.
96. I have also had regard to the Heritage Report prepared on behalf of the landowner. It comments: ‘While I don’t disagree that the site (particularly the north-western paddock) makes some contribution to the conservation area, it is my view that this is a relatively minor contribution in the context of what is key to the character and appearance of the area, and that the contribution of the south-western paddock is more limited.’ The report also notes that the ‘if there is found to be any harm arising to the conservation area from the proposals, this must in my view be considered at the lower end of the spectrum of less than substantial harm.’ I note that NPPF Paragraph 215 states that where a

development will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal.

97. The Planning Inspector noted the Silchester Conservation Area Appraisal 2003 which refers to the surrounding landscape and more open countryside to the south of the village. She noted the site makes a positive contribution towards the character and appearance of the Conservation Area and that the development would detract from the important general view from the Conservation Area, as well as the general setting.
98. In my view, the allocation would not preserve or enhance the character of the Conservation Area, or its setting. It would result in harm to the rural character and appearance of the site due to increased urbanisation contrary to national policy and Local Plan policies EM1 – Landscape and EM11 – The Historic Environment. I have had regard to the proposed mitigation outlined in the technical reports, including proposals for a defensible boundary and other mechanisms identified in the policy. I have also had regard to the benefits of the development identified by the Parish Council. In my view these would not outweigh the harm.
99. The Planning Inspector also highlights the relatively poor accessibility of the site to local facilities and public transport. Silchester has a public house, village hall, a primary school and a limited bus service which, the Parish Council recognise in section 2 of the Neighbourhood Plan, would result in local residents generally relying on travel by car for work, shopping, health services and wider leisure opportunities. In my view, the development would not contribute to the achievement of sustainable development and be contrary to Local Plan policy CN9 - Transport. I note that as a major development, a travel plan would be required. However, I do not consider that this would significantly alter the need to travel by unsustainable travel modes.

Conclusions

100. I recognise and support the Parish Council's aspirations to ensure that the development is sustainable, reflects the distinctive character of the village and seeks to address the constraints and opportunities presented on the site. Many of the criteria seek to amplify the conditions set out in the Local Plan and Design Codes and address the issues that will be considered as part of an application.

101. However, whilst recognising the benefits of providing housing, outlined above, in my view the proposed allocation would not contribute to the achievement of sustainable development and would not be in general conformity with the strategic policies of the Local Plan and therefore does not meet the Basic Conditions. I recommend that the policy and all references to the housing and open space allocation be deleted from the Neighbourhood Plan.

Policy SIL9: Local Employment

102. Policy SIL9 identifies five established ‘employment sites’ which are also shown on the policies maps. The policy supports the intensification of these sites subject to being compatible with existing uses, landscape designations and protecting the setting of heritage assets. Proposal should be accompanied by a transport assessment. The loss of employment sites will not be supported unless it is re-provided elsewhere.
103. Following my site visit, I am satisfied that the employment sites identified in SIL9 have clear economic and social value to the parish.
104. Local Plan policy EP1 seeks to grow and retain existing businesses by protecting existing employment sites. The policy is broadly compatible with national policy specifically paragraph 89 which seeks to support the sustainable growth of the rural economy. NPPF at paragraph 88 supports the retention and development of accessible local services including public house and community facilities. National policy supports the expansion of the economy in rural areas ensuring that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits opportunities to make the location more sustainable.
105. There is a degree of inconsistency in how the boundaries of the employment sites have been defined. The site area of Silchester Farm (site 3) includes a substantial area of land to the north of the main wedding venue which appears to be used for ceremonies, but which also seems to have a more agricultural / informal use. The defined area to the northeast of site 5 - Park Business Centre – appears to include land outside the employment area. On site it would appear different shape from the Policies Map. In

contrast Culham Mill includes only the building and not the curtilage which is clearly part of the employment use.

106. In response to my concerns about the consistency of the site areas, the Parish Council have provided updated site area maps. I am satisfied that these are now consistent with each other and reflect the employment site areas. For clarity, the maps should be included alongside the policy.
107. National policy seeks to protect important local services. However, planning policies are required to be ‘flexible enough to accommodate needs not anticipated in the plan, and allow for new and flexible working practices and spaces to enable a rapid response to changes in economic circumstances.’ As such it is inappropriate to restrict the change of use only in exceptional circumstances where the site is re provided within the parish. Local Plan policy EP2 – Employment Land and Premises (B Use Classes) provides criteria which can be applied to these circumstances. I therefore recommend modifications accordingly to ensure the policy is consistent with the Local Plan.
108. I endorse BDBC’s view in respect of part B of the policy. NPPF refers to development proposals that will ‘generate significant amounts of movement’ to provide a Travel Plan and be supported by a Transport Statement or Assessment. Criteria B) should be amended to align with national policy (NPPF paragraph 118). Proposals that would generate significant amounts of movement should be supported by a Travel Plan and/or Transport Assessment or Statement to address the transport impacts arising from the development, whilst maximising opportunities for sustainable transport modes.’ I make the following recommended modifications:-

Part A – make a minor amendment ‘employment uses on’ with employment uses ‘in’

Replace Part B with ‘Proposals that would generate significant amounts of movement should be supported by a Travel Plan and/or Transport Assessment or Statement to address the transport impacts arising from the development, whilst maximising opportunities for sustainable transport modes.

Replace Part C with ‘Proposals will be supported where it can be demonstrated that the employment use is no longer viable on the site after undertaking marketing in line with the approach in Local Plan policy EP2 parts 1a and 1b.’

Amend the site plans as submitted by the Parish Council in response to my questions.

Policy SIL10 – Connecting the Village

109. Policy SIL10 identifies existing bus routes, cycle paths, and public rights of way on the Policies and Inset Maps. Development proposals should avoid harm to those networks and enhance the connectivity of the network. The policy identifies opportunities to improve the public realm to enhance walking and cycling. It also supports secure cycle parking at key locations in the village.
110. Section 9 of NPPF seeks to ensure that proposal understand and address the potential impacts of development on transport networks. Additionally, realising opportunities from existing or proposed infrastructure and identifying and pursuing opportunities to promote walking, cycling and public transport are key aspects of national policy.
111. Similarly, Local Plan policy CN9 – Transport seeks to promote transport choice through improvements to public transport and supporting infrastructure including cycling and walking networks.
112. I am satisfied that the intention of the policy is consistent with national and local policy and would contribute to the achievement of sustainable development. For accuracy and to remove ambiguity so that decision makers are clear I recommend the following modifications:-

The Neighbourhood Plan identifies the existing active travel routes ~~and opportunities for improvements~~, as shown on the Policies Map. For the purpose of prioritising active travel in accordance with Healthy Streets principles and encouraging the use of public transport,

~~A-~~Development proposals on land that lies within or adjacent to the public rights of way and public transport networks should avoid harm and should sustain and where appropriate to the scale, nature and location of the proposal practicable enhance the

connectivity of the Network by virtue of their layout, means of access and landscape treatment, including the creation of safe and suitable links to the existing footways, footpaths and walking routes.

~~BA. Opportunities have been identified as areas where public realm improvements are required~~Proposals which deliver opportunities for improvement to the public realm, in partnership with Hampshire County Council as Local Highways Authority, will be supported ~~to~~ which enhance the walking and cycling environment, improve residential amenity and highway safety.

Delete final sentence of paragraph 5.54.

Policy SIL11: Community Facilities

113. Policy SIL11 identifies ten community facilities which are considered to be valuable assets. Each is described in detail in Appendix D. The policy seeks to resist proposals that would harm or result in the loss of the community facilities unless a series of criteria are met. I note that the Silchester Church of England Primary School and the Calleva Arms are also valued employment sites identified in policy SIL9. In response to my question in relation to this policy and the potential duplication in respect of the Primary School, references to the Primary School are to be removed from this policy.
114. National policy states that planning policies should enable the retention and development of accessible local services including meeting place, sports venues, open spaces, public houses, and places of worship. The list of community facilities falls within the broad definition provided in NPPF.
115. The policy is broadly aligned with Local Plan policy CN7 – Essential Facilities and Services which seeks to resist proposals that would be detrimental to or result in the loss of facilities and services that meet the community needs.
116. I recommend the following modifications:-

Move criteria iii and the final sentence of part B to the supporting text.

Delete references in this policy and its appropriate maps to the Silchester Church of England Primary School.

Policy SIL12: Education

117. The policy supports proposals for the expansion of Silchester Primary School or co location of related services including early years provision.
118. National policy states that planning policies should enable the retention and development of key services and facilities. The policy clearly supports the expansion of the school and is consistent with Local Plan policy CN7.
119. I recommend a modification that the primary school is referred to as Silchester Church of England Primary School.

Policy SIL13 – Green Infrastructure

120. Policy SIL13 is a wide reaching and complicated policy. It seeks to ‘designate’ a Green Infrastructure Network Map. New development is required to demonstrate how it protects and enhances features and secure 10% Biodiversity Net Gain in line with the statutory framework. The policy supports on-site open space which connects to green infrastructure assets. Infill sites are similarly to provide links to adjoining green infrastructure assets. New development is required to retain trees and hedgerows, and to secure connected habitats for ‘species adaption to climate change.’ The loss of trees and hedgerows is resisted but where lost they should be replaced with indigenous species. The impact upon rare and threatened species should be assessed and necessary mitigation incorporated to protect those species. Proposals adjoining the network should have full regard to maintaining and improving the functionality of the network. Proposals which harm the connectivity of functionality of the network will not be supported.
121. NPPF (para 192) states that to protect and enhance biodiversity and geodiversity, plans should identify, map and safeguard components of local wildlife rich habitats and wider ecological networks. The map included alongside the policy contains a broad overview of habitat categories informed by analysis completed by Hampshire Biodiversity

Information Centre. It details Broad Habitats, Priority Habitats, Core Statutory, and Core Non-Statutory sites. Whilst it could be helpful in identifying areas that have a biodiversity interest, the locally distinct and detailed importance of these areas is not clear. In response to my questions, the Parish Council has simply provided a list of the types of sites that are included in each category.

122. I am aware that within each group category there are distinct designations, each of which would have been identified for a specific reason, and which would have different policy protections provided by national and local policy. Therefore, by applying a generic policy to the ‘network,’ the policy lacks the clarity that is required to allow a decision maker to apply the policy consistently. It would be contrary to national policy which provides advice relevant to each of the habitats or wildlife designations. Additionally, the requirement for all new development to provide BNG of 10% is inconsistent with legislation and I recommend modifications accordingly.
123. Paragraph 5.64 of the Neighbourhood Plan usefully explains the purpose of the policy and sets out some of the key features of the ‘Network.’ The following paragraph goes onto that the data on the map has been sourced from Natural England and Hampshire’s Biodiversity Information Centre. The paragraph should be updated to refer to the map with appropriate Map numbering.
124. I recommend amending the policy to include the necessary flexibility and consistency with national policy particularly NPPF paragraph 193 which sets out the principles for determining planning applications on sites of biodiversity interest, as follows :-

~~The Neighbourhood Plan designates the Silchester Green Infrastructure Network, as shown~~

~~on the map below;~~

~~A. New Development proposals will be required to demonstrate how it should protect and enhance these features components of wildlife and biodiversity interest having regard to Hampshire’s Ecological Network Mapping (Map x). Where appropriate, proposals should secure the mandatory Biodiversity Net Gain requirements as established by the Environment Act 2021, under current legislation, national and local policy, and secure a minimum 10% net~~

~~gain for biodiversity in line with the statutory framework for Biodiversity Net Gain (BNG).~~

B. Development proposals for new development requiring the provision of on-site open space will be supported where the design of open space is integral to the scheme and, where appropriate, is effectively connected to any adjoining green infrastructure assets. Where appropriate, developers will be expected to enter into a planning obligation to secure satisfactory arrangements for the long-term management of this open space.

C. Where appropriate development proposals for smaller infill schemes will be supported, where it should also seek to realise any opportunities to connect their its landscape schemes with adjoining green infrastructure identified on Map x assets.

~~CD.~~ New Development proposals will also be required to should retain trees and hedgerows, wherever possible, and ~~to~~ secure opportunities to create connected habitats as identified on Map x suitable for species adaption to climate change. Where they are unavoidably lost, replacement trees and hedgerows using indigenous species ~~must~~ should be planted. ~~All Development proposals for development in the Plan area must~~ where appropriate, should ensure that any potential impacts upon rare and threatened species are fully assessed in accordance with national policy, and ~~that~~, where necessary, mitigation measures are incorporated to safeguard and protect those species.

~~DE.~~ Development proposals should, where appropriate, ~~that lie within or adjoining the Network are required to have full regard to maintaining and improving the~~ functionality of the habitats and open space Networks in the design of their layouts, landscaping schemes, and public open space provisions. ~~Proposals that will harm the functionality or connectivity of the Network, will not be supported.~~

Update paragraph 5.65 to refer to the Network map with appropriate Map number.

Implementation and Monitoring

125. The approach to implementation and monitoring is appropriate to the proposed policies in the Neighbourhood Plan. It sets out clear and concise interventions to support the proposals in the plan. I do not consider the proposed modifications to the proposed housing allocation and policies as set out above would necessitate a review of the priorities.

PART 4

CONCLUSIONS

1. In principle, with the exception of Policy SIL8 – allocation of land at Little London Road, and subject to the adoption of the various recommended modifications and amendments set out above made in order to address various perceived deficiencies in the draft Neighbourhood Plan, I am satisfied that it should thereafter be compliant with the statutory requirements. The Policies, as modified, set out in the draft Neighbourhood Plan are broadly justified by legitimate aims: protection of the environment; amenity of local people; support for the local economy; conservation of landscape and local heritage. I am also satisfied that they do not strike an intrinsically unfair balance. I am further satisfied that the Policies will in general conform with the existing statutory development plan and support the achievement of sustainable development.
2. Thus, in my judgment, the draft Neighbourhood Plan should thereafter be compliant with the various statutory requirements and proceed to referendum.

Edward Cousins
Examiner

Radcliffe Chambers

23rd November 2025