

# **Brightwell-cum-Sotwell Neighbourhood Development Plan Review 2011-2035**

**A report to South Oxfordshire District Council on  
the Brightwell-cum-Sotwell Neighbourhood  
Development Plan Review**

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## **Executive Summary**

- 1 I was appointed by South Oxfordshire District Council in June 2023 to carry out the independent examination of the review of the Brightwell-cum-Sotwell Neighbourhood Development Plan.
- 2 The examination was undertaken by way of written representations. I visited the neighbourhood area on 20 June 2023.
- 3 The Plan is an excellent example of a neighbourhood plan review. It seeks to bring the Plan up to date and responds to the adoption of the South Oxfordshire Local Plan. It includes a variety of policies and seeks to bring forward positive and sustainable development in the neighbourhood area.
- 4 The Plan has been underpinned by community support and engagement. All sections of the community have been engaged in its preparation.
- 5 Subject to a series of recommended modifications set out in this report I have concluded that the Brightwell-cum-Sotwell Neighbourhood Development Plan Review meets all the necessary legal requirements and should be made by South Oxfordshire District Council.

**Andrew Ashcroft**  
**Independent Examiner**  
**15 September 2023**

## **1 Introduction**

- 1.1 This report sets out the findings of the independent examination of the Brightwell-cum-Sotwell Neighbourhood Development Plan Review 2011-2035 ('the Plan').
- 1.2 The Plan was submitted to South Oxfordshire District Council (SODC) by Brightwell-cum-Sotwell Parish Council (BCSPC) in its capacity as the qualifying body responsible for preparing the neighbourhood plan.
- 1.3 Neighbourhood plans were introduced into the planning process by the Localism Act 2011. They aim to allow local communities to take responsibility for guiding development in their area. This approach was subsequently embedded in the National Planning Policy Framework (NPPF) in 2012, 2018, 2019, 2021 and 2023. The NPPF continues to be the principal element of national planning policy.
- 1.4 The role of an independent examiner is clearly defined in the legislation. I have been appointed to examine whether the submitted Plan meets the basic conditions and Convention Rights and other statutory requirements. It is not within my remit to examine or to propose an alternative plan, or a potentially more sustainable plan except where this arises as a result of my recommended modifications to ensure that the plan meets the basic conditions and the other relevant requirements.
- 1.5 A neighbourhood plan (and a review of a plan) can be narrow or broad in scope and can include whatever range of policies it sees as appropriate to its designated neighbourhood area. The submitted Plan has been designed to be distinctive in general terms, and to be complementary to the existing development plan. It seeks to provide a context in which the neighbourhood area can maintain its character and setting in the wider landscape.
- 1.6 Within the context set out above, this report assesses whether the Plan is legally compliant and meets the basic conditions that apply to neighbourhood plans. It also considers the content of the Plan and, where necessary, recommends changes to its policies and supporting text.

## **2 The Role of the Independent Examiner**

- 2.1 The examiner's role is to ensure that any submitted neighbourhood plan meets the relevant legislative and procedural requirements.
- 2.2 I was appointed by SODC, with the consent of BCSPC, to conduct the examination of the Plan and to prepare this report. I am independent of both SODC and BCSPC. I do not have any interest in any land that may be affected by the Plan.
- 2.3 I possess the appropriate qualifications and experience to undertake this role. I am a Director of Andrew Ashcroft Planning Limited. In previous roles, I have over 40 years' experience in various local authorities at either Head of Planning or Service Director level and more recently as an independent examiner. I am a chartered town planner and have significant experience of undertaking other neighbourhood plan examinations. I am a member of the Royal Town Planning Institute and the Neighbourhood Planning Independent Examiner Referral System.

### *Examination Outcomes*

- 2.4 The examination process for the review of a 'made' neighbourhood plan is set out in Section 3 of this report.
- 2.5 The outcome of the examination is set out in Section 8 of this report.

### *Other examination matters*

- 2.6 In examining the Plan, I am required to check whether:
- the policies relate to the development and use of land for a designated neighbourhood plan area; and
  - the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 (the Plan must specify the period to which it has effect, must not include provision about development that is excluded development, and must not relate to more than one neighbourhood area); and
  - the Plan has been prepared for an area that has been designated under Section 61G of the Localism Act and has been developed and submitted for examination by a qualifying body.
- 2.7 I have addressed the matters identified in paragraph 2.6 of this report and am satisfied that they have been met.

### 3 Procedural Matters

3.1 In undertaking this examination I have considered the following documents:

- the submitted Plan.
- the Basic Conditions Statement.
- the Consultation Statement.
- the SEA/HRA screening report.
- the BCSPC Modification Statement.
- the SODC Modification Statement.
- the Design Code.
- the Key Views Analysis.
- the Assets of Community Value Addendum.
- the representations made to the Plan.
- BCSPC's responses to the clarification note.
- the adopted South Oxfordshire Local Plan (2011-2035).
- the National Planning Policy Framework (September 2023).
- Planning Practice Guidance.
- relevant Ministerial Statements.

3.2 I visited the neighbourhood area on 20 June 2023. I looked at its overall character and appearance and at those areas affected by policies in the Plan in particular.

3.3 It is a general rule that neighbourhood plan examinations should be held by written representations only. Having considered all the information before me, including the representations made to the submitted plan, I concluded that the Plan could be examined by way of written representations. I was assisted in this process by the comprehensive nature of many of the representations and the professional way in which the Plan has been developed.

*The examination process for the review of a neighbourhood plan*

3.4 The Neighbourhood Planning Act 2017 identifies the circumstances that might arise as and when qualifying bodies seek to review 'made' neighbourhood plans and introduces a proportionate process to do so based on the changes proposed.

3.5 There are three types of modification which can be made to a neighbourhood plan or order. The process will depend on the degree of change which the modification involves and as follows:

- minor (non-material) modifications to a neighbourhood plan or order which would not materially affect the policies in the plan or permission granted by the order. These may include correcting errors, such as a reference to a supporting document, and would not require examination or a referendum; or
- material modifications which do not change the nature of the plan or order and which would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing

design policy, or the addition of a site or sites which, subject to the decision of the independent examiner, are not so significant or substantial as to change the nature of the plan; or

- material modifications which do change the nature of the plan or order would require examination and a referendum. This might, for example, involve allocating significant new sites for development.

3.6 BCSPC has considered this issue. It takes the view that the proposed changes to the 'made' Plan fall into the second category.

3.7 SODCC has also undertaken a separate assessment of the issue. It takes the same view as BCSPC on the scale and nature of the modifications to the policies in the 'made' Plan.

3.8 I have considered these assessments very carefully. I have concluded that the review of the Plan includes material modifications which do not change the nature of the Plan and which would require examination but not a referendum. I have reached this decision for the following reasons:

- the new policies largely update those in the 'made' Plan; and
- the modifications to the existing policies will bring the Plan up to date to reflect changes in national and local planning policy.

3.9 In these circumstances I will examine the Plan against Schedule A2 of the Planning and Compulsory Purchase Act 2004. The regulations identify that this report must recommend one of three outcomes:

- that the local planning authority should make the draft plan; or
- that the local planning authority should make the draft plan with the modifications specified in the report; or
- that the local planning authority should not make the draft plan.

3.10 Section 7 of this report assesses each policy in turn and identifies any modifications required to ensure that the policy meets the basic conditions. My recommendation is then set out in Section 8.

## 4 Consultation

### *Consultation Process*

- 4.1 Policies in made neighbourhood plans become the basis for local planning and development control decisions. As such the regulations require neighbourhood plans to be supported and underpinned by public consultation.
- 4.2 In accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended), BCSPC prepared a Consultation Statement. It is proportionate to the neighbourhood area and its policies. It is a good example of a Statement of this type. It sets out key findings in a concise report which is underpinned with a series of more detailed tables and appendices.
- 4.3 Section 4 of the Statement records the various activities that were held to engage the local community. This process reflects the nature of the review of the 'made' Plan. The Statement also provides specific details on the consultation processes that took place on the pre-submission version of the Plan (March to May 2022). Sections 6 and 7 of the Statement provide details about how the Plan was refined as a result of this process.
- 4.4 Section 9 of the Statement helpfully sets out the changes that were made to the Plan after the consultation process on the pre-submission version.
- 4.5 I am satisfied that consultation has been an important element of the Plan's production. Advice on the neighbourhood planning process has been made available to the community in a positive and direct way by those responsible for the Plan's preparation. From all the evidence provided to me as part of the examination, I can see that the Plan has promoted an inclusive approach to seeking the opinions of all concerned throughout the process. SODC has carried out its own assessment that the consultation process has complied with the requirements of the Regulations.

### *Consultation Responses*

- 4.6 Consultation on the submitted plan was undertaken by SODC. It ended on 17 April 2023. This exercise generated representations from the following organisations:
- South Oxfordshire District Council
  - Blue Cedar Homes
  - SSE
  - A2 Dominion
  - Croudace Homes
  - Historic England
  - Coal Authority
  - National Grid
  - National Gas
  - Natural England

- Oxfordshire County Council
- Thames Water

4.7 A representation was also received from a resident. I have taken account of all the representations in preparing this report. Where it is appropriate to do so, I refer to specific representations on a policy-by-policy basis.



## 5 The Neighbourhood Area and the Development Plan Context

### *The Neighbourhood Area*

- 5.1 The neighbourhood area covers the parish of Brightwell-cum-Sotwell. It was designated as a neighbourhood area on 13 April 2015. Its population in 2011 was 1538 persons living in 612 households.
- 5.2 The neighbourhood area is located between Didcot and Wallingford. Wallingford sits to the immediate east of both the neighbourhood area and the village itself. The neighbourhood area is primarily in agricultural use with the built-up area of the village at its heart. The village is predominantly residential in character. The hamlets of Mackney, Shillingford Hill and Shires Hill also fall within the neighbourhood area. The former sits to the south of Brightwell-cum-Sotwell.
- 5.3 The village of Brightwell-cum-Sotwell is located to the immediate south of the A4130. It has a compact form based around High Road to the north and the axis of Brightwell Street and Sotwell Street to the south. The design of the vernacular buildings reflects the agricultural heritage of the village. Most of the southern part of the village is within the Brightwell-cum-Sotwell Conservation Area. Mackney is also a conservation area.

### *Development Plan Context*

- 5.4 The South Oxfordshire Local Plan was adopted in December 2020. It sets out the basis for future development in the District up to 2035.
- 5.5 Brightwell-cum-Sotwell is identified as ‘smaller village’ in the adopted Local Plan (Appendix 7). Policy H8 of the Plan addresses development in such villages. Paragraph 4.37 of that Plan comments that smaller villages ‘have no defined requirement to contribute towards delivering additional housing (beyond windfall and infill development) to meet the overall housing requirement of South Oxfordshire. There is a sufficient supply of housing from strategic allocations and from existing planning permissions, which means that the less sustainable settlements will not be required to offset the housing requirement. However, some parishes may still wish to proceed with preparing a Neighbourhood Development Plan for example to achieve the protection afforded by allocating housing to fund projects they want to deliver or they would like to identify a specific type of housing bespoke to their village’s needs. The Council’s strategy therefore allows them to do so, provided that the levels of growth are commensurate to the size of the village’
- 5.6 The following other policies are particularly relevant to the submitted Plan:

Policy STRAT 1	The Overall Strategy
Policy EMP10	Development in Rural Areas
Policy ENV1	Landscape and Countryside
Policy ENV3	Biodiversity
Policy ENV4	Watercourses
Policy ENV6	Historic Environment

Policy ENV7                      Listed Buildings  
Policy DES1                      Delivering High Quality Development

- 5.7      The submitted Plan has been prepared within its up-to-date development plan context. In doing so, it has relied on up-to-date information and research that has underpinned existing planning policy documents. This is good practice and reflects key elements in Planning Practice Guidance on this matter.
- 5.8      In the round the submitted Plan seeks to add value to the different components of the development plan and to give a local dimension to the delivery of its policies. This is captured in the Basic Conditions Statement.

*Visit to the neighbourhood area*

- 5.9      I visited the neighbourhood area on 20 June 2023. I approached it from Wallingford. This helped me to understand its position in the wider landscape in general and its accessibility to the strategic road network.
- 5.10     I looked at the parts of the neighbourhood area that are most affected by the policies in the Plan. I paid particular attention to assessing the progress on the allocated housing sites in the made Plan, the continued appropriateness of the designated local green spaces and the integrity of the Local Gap
- 5.11     I also took the opportunity to look at some of the proposed local heritage assets as listed in Policy BCS7.
- 5.12     I appreciated the continued attractiveness and tranquillity of the neighbourhood area.

## 6 The Neighbourhood Plan and the Basic Conditions

- 6.1 This section of the report deals with the submitted neighbourhood plan as a whole and the extent to which it meets the basic conditions. The submitted Basic Conditions Statement has helped in the preparation of this section of the report. It is an informative and well-presented document.
- 6.2 As part of this process, I must consider whether the submitted Plan meets the basic conditions as set out in paragraph 8(2) of Schedule 4B of the Town and Country Planning Act 1990. To comply with the basic conditions, the Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contribute to the achievement of sustainable development;
  - be in general conformity with the strategic policies of the development plan in the area;
  - be compatible with European Union (EU) obligations and European Convention on Human Rights (ECHR); and
  - not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

I assess the Plan against the basic conditions under the following headings.

### *National Planning Policies and Guidance*

- 6.3 For the purposes of this examination the key elements of national policy relating to planning matters are set out in the National Planning Policy Framework 2023 (NPPF).
- 6.4 The NPPF sets out a range of land-use planning principles to underpin both plan-making and decision-taking. The following are particularly relevant to the Brightwell-cum-Sotwell Neighbourhood Development Plan Review:
- a plan-led system - in this case the relationship between the neighbourhood plan and the South Oxfordshire Local Plan;
  - building a strong, competitive economy;
  - recognising the intrinsic character and beauty of the countryside and supporting thriving local communities;
  - taking account of the different roles and characters of different areas;
  - highlighting the importance of high-quality design and good standards of amenity for all future occupants of land and buildings; and
  - conserving heritage assets in a manner appropriate to their significance.
- 6.5 Neighbourhood plans sit within this wider context both generally, and within the more specific presumption in favour of sustainable development. Paragraph 13 of the NPPF indicates that neighbourhoods should both develop plans that support the strategic needs set out in local plans and plan positively to support local development that is outside the strategic elements of the development plan.

- 6.6 In addition to the NPPF I have also taken account of other elements of national planning policy including Planning Practice Guidance and the recent ministerial statements.
- 6.7 Having considered all the evidence and representations available as part of the examination I am satisfied that the submitted Plan has had regard to national planning policies and guidance subject to the recommended modifications in this report. It sets out a positive vision for the future of the neighbourhood area. It includes a series of policies on a range of development and environmental matters. In addition, it seeks to update the 'made' Plan to take account of changes in national policy since 2017.
- 6.8 At a more practical level, the NPPF indicates that plans should provide a clear framework within which decisions on planning applications can be made and that they should give a clear indication of how a decision-maker should react to a development proposal (paragraph 16d). This was reinforced with the publication of Planning Practice Guidance. Paragraph ID: 41-041-20140306 indicates that policies in neighbourhood plans should be drafted with sufficient clarity so that a decision-maker can apply them consistently and with confidence when determining planning applications. Policies should also be concise, precise, and supported by appropriate evidence.
- 6.9 As submitted the Plan does not fully accord with this range of practical issues. Most of my recommended modifications in Section 7 relate to matters of clarity and precision. They are designed to ensure that the Plan fully accords with national policy.

*Contributing to sustainable development*

- 6.10 There are clear overlaps between national policy and the contribution that the submitted Plan makes to achieving sustainable development. Sustainable development has three principal dimensions – economic, social, and environmental. The submitted Plan has set out to achieve sustainable development in the neighbourhood area. In the economic dimension, the Plan includes policies for the allocation of land for new homes (Policies BCS2-4). In the social role, it includes policies on the mix of houses (Policy BCS5), and dark skies (Policy BCS11). In the environmental dimension, the Plan positively seeks to protect its natural, built, and historic environment. It has policies on design (BCS6), and heritage assets (Policy BCS7). This assessment overlaps with the details on this matter in the submitted Basic Conditions Statement.

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

- 6.11 I have already commented in detail on the development plan context in South Oxfordshire in paragraphs 5.4 to 5.8 of this report.
- 6.12 I consider that the submitted Plan delivers a local dimension to this strategic context and supplements the detail already included in the adopted development plan. Subject to the recommended modifications in this report, I am satisfied that the submitted Plan is in general conformity with the strategic policies in the development plan.

### *Strategic Environmental Assessment*

- 6.13 The Neighbourhood Plan General Regulations 2015 require a qualifying body either to submit an environmental report prepared in accordance with the Environmental Assessment of Plans and Programmes Regulations 2004 or a statement of reasons why an environmental report is not required.
- 6.14 In order to comply with this requirement, SODC undertook a screening exercise in July 2022 on the need or otherwise for a Strategic Environmental Assessment (SEA) to be prepared for the Plan. The report is thorough and well-constructed. It concludes that the Plan is unlikely to have a significant effect on the environment and therefore does not require a Strategic Environment Assessment.

### *Habitats Regulations Assessment*

- 6.15 SODC also prepared a Habitats Regulations Assessment (HRA) of the Plan at the same time. It assesses the potential impact of the Plan's policies on the following protected sites:
- Little Wittenham SAC;
  - Hartslock Wood SAC;
  - Aston Rowant SAC;
  - Chilterns Beechwoods SAC;
  - Oxford Meadows SAC; and
  - Cothill Fen SAC.
- 6.16 The HRA concludes that the neighbourhood plan will not give rise to likely significant effects on these protected sites, either alone or in combination with other plans or projects, and that Appropriate Assessment is not required.
- 6.17 Having reviewed the information provided to me as part of the examination, I am satisfied that a proportionate process has been undertaken in accordance with the various regulations. None of the statutory consultees have raised any concerns about neighbourhood plan obligations. In the absence of any evidence to the contrary, I am entirely satisfied that the submitted Plan is compatible with this aspect of neighbourhood plan regulations.

### *Human Rights*

- 6.18 In a similar fashion I am satisfied that the submitted Plan has had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (ECHR) and that it complies with the Human Rights Act. There is no evidence that has been submitted to me to suggest otherwise. There has been full and adequate opportunity for all interested parties to take part in the preparation of the Plan and to make their comments known. On this basis, I conclude that the submitted Plan does not breach, nor is in any way incompatible with the ECHR.

### *Summary*

- 6.19 On the basis of my assessment of the Plan in this section of my report I am satisfied that it meets the basic conditions subject to the incorporation of the recommended modifications contained in this report.

## 7 The Neighbourhood Plan policies

- 7.1 This section of the report comments on the policies in the Plan. It makes a series of recommended modifications to ensure that the various policies have the necessary precision to meet the basic conditions.
- 7.2 The recommendations focus on the policies in the Plan given that the basic conditions relate primarily to this aspect of neighbourhood plans. In some cases, I have also recommended changes to the associated supporting text.
- 7.3 I am satisfied that the content and the form of the Plan is fit for purpose. It is distinctive and proportionate to the neighbourhood area. The wider community and BCSPC have spent time and energy in identifying the issues and objectives that they wish to be included in the review of the Plan. This sits at the heart of the localism agenda.
- 7.4 The Plan has been designed to reflect Planning Practice Guidance (ID:41-004-20190509) which indicates that neighbourhood plans should address the development and use of land.
- 7.5 I have addressed the policies in the order that they appear in the submitted Plan.
- 7.6 For clarity, this section of the report comments on all the policies in the Plan.
- 7.7 Where modifications are recommended to policies they are highlighted in bold print. Any associated or free-standing changes to the text of the Plan are set out in italic print.

### *The initial parts of the Plan (Sections 1 to 5)*

- 7.8 The Plan is well-organised and presented. It has been prepared with much attention to detail. It makes an appropriate distinction between the policies and their supporting text.
- 7.9 The initial elements of the Plan set the scene for the policies. They are proportionate to the neighbourhood area and the subsequent policies. The Introduction (Section 1) comments about the way in which the review of the Plan was prepared and when the neighbourhood area was designated. It properly identifies the neighbourhood area (on Plan A) and the Plan period (in paragraph 1.2).
- 7.10 Section 2 sets out information about the neighbourhood area. It provides interesting and comprehensive details which help to set the scene for the eventual policies.
- 7.11 Section 3 comments on the revised planning policy context within which the review of the Plan has proceeded. It advises about relevant sections of the 2021 version of the NPPF and key policies in the South Oxfordshire Local Plan 2035.
- 7.12 Section 4 comments about the community's views on planning matters. It overlaps with the details in the Consultation Statement.
- 7.13 Section 5 sets out the vision, aims and objectives for the Plan. The vision is as follows:

*'To retain our separate identity as a rural parish set within open countryside, conserving the character of the various settlements; in a way that allows the community to evolve whilst sustaining our core vital services'*

- 7.14 The remainder of this section of the report addresses each policy in turn in the context set out in paragraphs 7.5 to 7.7 of this report.

*General comments on the Plan and the format of its policies*

- 7.15 The Plan is very well-presented. It is underpinned by good maps and an excellent range of photographs which highlight the relevant matters addressed.
- 7.16 The Plan is an excellent example of a review of a neighbourhood plan. It helpfully consolidates the review of the Plan into the structure of the 'made' Plan. This results in a series of new policies and the retention of existing policies in the 'made' Plan. For the purposes of this report, I do not comment in any detail on the retained policies other than where they may have been affected by the adoption of the South Oxfordshire Local Plan or by updates in national planning policy. In some cases, I have recommended modifications to the wording of policies in the made Plan to reflect the approach and language now taken in neighbourhood plans (which has matured since the Plan was made).

**BCS1 Brightwell-cum-Sotwell Village Boundary**

- 7.17 The policy proposes modifications to remove some confusion about the way it operates with Policy BCS10 on Local Gaps and BCS11 on Key Views and landscape character. The village boundary remains unchanged.
- 7.18 I am satisfied that the proposed changes to the wording of the policy do not conflict with the spatial principles of the 'made' Plan. As BCSPC suggests, the revisions to the policy will allow it to be applied in a consistent fashion by SODC. The approach taken also neatly dovetails into the approach taken in the new policy BCS6 on design.
- 7.19 I recommend two detailed modifications to the policy to bring the clarity required by the NPPF. Otherwise, it meets the basic conditions. It will contribute to the delivery of each of the three dimensions of sustainable development.

**In the second part of the policy replace 'accord with the design code of Policy BCS8' with 'have full regard to the local design code of Policy BCS6'.**

**In the third part of the policy replace 'consistent with lother' with 'consistent with other'**

**BCS2 Land at Bosley's Orchard**

- 7.20 The policy remains unchanged from the made Plan.
- 7.21 I am satisfied that it continues to meet the basic conditions.

**BCS3 Land at Thorne's Nursery**

- 7.22 The policy remains unchanged from the made Plan.



- 7.23 I am satisfied that it continues to meet the basic conditions.

BCS4 Slade End Green including; Slade End Farm, Strange's Nursery, Slade End South to West of Green Lane

- 7.24 The policy remains unchanged from the made Plan.

- 7.25 I am satisfied that it continues to meet the basic conditions.

BCS5 House Types and Tenures

- 7.26 This is a new policy. Part A responds to the national First Homes policy initiative introduced in 2021 by establishing criteria for Exception Schemes as prompted by the Written Ministerial Statement (WMS). BCSPC comments that the small scale of the development provided for by the WMS and the criteria used by this policy to shape its location will ensure that there is no significant change to the spatial principles of the made Plan. In addition, Part B responds to the adopted Local Plan in respect of older persons accommodation schemes

- 7.27 The two elements of the policy have attracted representations both from SODC and the development industry (Blue Cedar Homes, A2 Dominion and Croudace Homes).

- 7.28 On the First Homes issue, the policy sets out a series of criteria which any such proposals should meet. The first is that sites should have a boundary with the Village Boundary (as defined in Policy BCS1). The second is that no other First Homes scheme should have been approved or implemented in the Plan period. The third is that the scheme should not provide more than nine homes. The fourth sets out a series of specific, local issues.

- 7.29 SODC suggested that the policy should be recast to reflect the approach taken in a Plan elsewhere in the District. The development industry raised specific concerns about the prescriptive nature of the nine homes cap. In its response to the clarification note BCSPC commented that:

*'Planning Practice Guidance (reference) which encourages plan-makers to set policies specifying an approach to determining proportionality. The policy provisions of Policy BCS5 is considered an appropriate response to exception sites, in much the same way of Policy H10 of the South Oxfordshire District Local Plan (SODC LP). Such exception sites are normally exempt from other developer contributions and generally limited in size to ensure that individual, or cumulative, growth does not overwhelm existing village services and facilities. The provisions of Policy H10 of the SODC LP on rural exception sites will continue to apply in the parish and require a detailed housing needs survey to demonstrate the extent of housing needs arising from people with a local connection. The allocations of the made Neighbourhood Plan will also help to address local housing need. There are therefore other provisions which would allow otherwise acceptable homes to also come forward in the village, on top of first home exception sites. (BCSPC) therefore considers it appropriate to pursue the policy provisions of Policy BCS5 as provide for by (national planning policy),'*

- 7.30 I have considered this matter very carefully. Whilst I can see that the approach taken in the policy sets out to guide the element of proportionality required by the Written Ministerial Statement (date 2021) on First Homes, it imposes arbitrary restrictions on the size and yield of any such schemes rather than proposing an approach on the evidence necessary to assess the proportionality of a scheme. The second criteria (which effectively would only support one First Homes scheme in the parish) is particularly restrictive.
- 7.31 I recommend modifications to remedy this matter. They emphasise the need for evidence to ensure that sites coming forward meet local needs and that the scale of development is appropriate to the village. I also recommend consequential modifications to the supporting text. In recommending this approach I have taken account of BCSPC's response in the clarification note to SODC's representation. I am satisfied that the circumstances in the neighbourhood area are different to those which exist in the area affected by the other Plan which was recently examined in the District. In particular, the Brightwell Plan allocates sites for residential development. Otherwise, the policy meets the basic conditions. It will assist in the delivery of the social and environmental dimensions of sustainable development.
- 7.32 On the older persons accommodation issue, SODC and the development industry suggested that this element of the policy should be deleted due to the lack of any supporting evidence for the approach taken in the Plan and its conflict with national and local planning policies. In its response to the clarification note BCSPC commented that:
- 'The support for older persons accommodation in Policy H13 of the (Local Plan) is given in locations with good access to public transport and local facilities. It is widely accepted that an important requirement for special housing for older people is that of a sustainable, accessible location with good access to public transport and local facilities and to the necessary workforce of carers and others. Another important requirement is cost effectiveness and economies of scale. As Policy H8 of the Local Plan recognises, smaller villages have no defined requirement to contribute towards delivering additional housing as it is a less sustainable settlement in the district. Additionally, Policy H11 of the Local Plan requires at least 15% of market housing on sites of 10 dwellings or more to be designed to meet the standard of part M (4) category 2 - accessible and adaptable dwellings. The Local Plan policy therefore makes provision for building up a stock of accessible and adaptable homes over the long term likely to be in more sustainable locations. The village has already seen the effects of an ageing demographic prior to the preparation of the first Neighbourhood Plan when the local school was under threat of closure. The Made Neighbourhood Plan therefore recognised the value of small housing developments for downsizers and younger people to breathe new life into its settlement that would sustain this valuable community asset. The remaining allocations therefore also provide additional opportunities to provide homes for downsizers.'*
- 7.33 I have considered this matter very carefully. On the balance of the evidence, I recommend the deletion of this part of the policy. Whilst I understand the position which BCSPC has taken on this matter, I am not satisfied that it has regard to national policy.

Section 5 of the NPPF sets out the importance of significantly boosting the supply of homes (paragraph 60) and providing homes for different groups in the community including older people (paragraph 62). In addition, there is a balance to be struck in planning policies. The development of specific accommodation for older people will not in itself prevent the development of the allocated housing sites in the Plan, and which may appeal to younger people as anticipated in BCSPC's response to the clarification note. In addition, the community facilities and spirit in the village may appeal to older persons from outside the neighbourhood area. Moreover, purpose-built facilities for older people may offer opportunities for existing residents to downsize and remain in the community.

- 7.34 For clarity, I have considered this part of the policy against the basic conditions. The recommended modification reflects that same approach. It should not be seen as offering direct or indirect support to the emerging proposals which are included in some of the representations from the development industry on this matter. Any such planning applications would be determined by SODC through the development management process.

**In Part A of the policy:**

- **replace the second criterion with: 'The scheme is supported by robust evidence of demonstrable local needs.'**
- **replace the third criterion with: 'The scheme is of an appropriate scale and density relative to the existing settlement character and surrounding pattern of development.'**

**Delete Part B of the policy.**

*Replace paragraph 3.32 with: 'Given these considerations, the availability of local facilities and local environmental constraints, the policy sets out a series of criteria with which any such proposal should comply. Key elements are that any such sites should have a boundary with the Village Boundary (as defined in Policy BCS1) and be of an appropriate scale and density relative to the existing settlement character and surrounding pattern of development. The approach also reflects the way in which the NPPF defines proportionate in size at paragraph 72b and the corresponding footnote 35.'*

**BCS6 Design Codes**

- 7.35 This is a new policy. It replaces Policies BCS9 and BCS10 of the 'made' Plan. Paragraph 5.43 of the Plan neatly describes the purpose of the policy as follows:

*'There are distinctive features of Brightwell-cum-Sotwell that shape its character. In the main village this does not just include the buildings. Mature trees; the absence of street lighting, hedgerows, gardens, open spaces, and country lanes all make a significant contribution to the unique and special character. These assets are set out in the new Brightwell-cum-Sotwell Design Code, which has been derived from the Conservation Area Character Appraisal and in the BCS Village Design Statement. The Code encapsulates the key design principles within the Conservation Area, its setting*

*and beyond and is set out in a formal that integrates with the South Oxfordshire Design Guide and is consistent with the National Model Design Code of 2021.'*

- 7.36 The policy is underpinned by the submitted Design Code. The introduction to the Code advises that:

*'it has been prepared in accordance with the National Model Design Code and its Guidance Notes published by the Ministry of Housing, Communities & Local Government in July 2021 as relevant to this area and policy context. Its content will inform the BCS Modified Neighbourhood Plan 2011 - 35 to bring clarity to the definition of the village settlements and the Conservation Areas to raise the standards of design for the purpose of managing future windfall and infill development, proposals coming forward on previously developed land, and/or rural/first homes exception sites.'*

- 7.37 BCSPC comments that the policy enables the modified Plan to reflect the new approach to design management that the government wishes the planning system to adopt. The new Design Code is cross referenced in the policy as the amalgamation of the design guidance content of both the Conservation Area Appraisal and Village Design Statement. BCSPC also advises that the policy is structured to fit neatly with the adopted Joint District-wide Design Guide to aid applicants to acknowledge, understand and respond to that Guide. BCSPC also comments that this approach will also help SODC to consider and determine the design elements of proposals more easily.
- 7.38 I am satisfied that the greater detail provided by the new Code refines and does not conflict with the design principles of the 'made' Plan. Indeed, in the round the policy and the Design Code are an excellent local response to the contents of Section 12 of the NPPF (which post-dates the making of the Plan). I am satisfied that the policy meets the basic conditions. It will contribute to the delivery of each of the environmental dimension of sustainable development.
- 7.39 SODC raises a series of detailed comments on the Code itself. They are proposed to improve and refine the Code and ensure that it is compatible with broader design guidance in the District, and in the adopted Local Plan. The suggested changes have been agreed by BCSPC in its responses to the clarification note. I recommend accordingly. Otherwise, the Code meets the basic conditions. In combination with Policy BCS6 it will contribute to the delivery of the environmental dimension of sustainable development.

**Incorporate the SODC suggested changes (References 24 to 40) within the Design Code**

BCS7 Assets of Local Heritage Value

- 7.40 This is a new policy. The Plan comments that:

*'it is now common for neighbourhood plans to draw out of their evidence base those buildings and structures that have some local heritage value, rather than leave that information in the evidence documents. This new policy helps draw them to the attention of applicants so they may consider how they may conserve and enhance that*

*interest in their proposals as they evolve. This policy identifies buildings and structures highlighted in the Conservation Area Appraisal and Village Design Statement as having some local architectural and/or historic interest to the extent that they can be defined as ‘non-designated heritage assets.’*

- 7.41 I looked at a selection of the proposed assets. I saw the way in which they contribute to the attractiveness of the settlements in the parish. I am satisfied that the policy is consistent with the broader heritage intentions of the Plan. In its response to the clarification note BCSPC confirmed that it had engaged with the owners of the affected properties as part of the preparation of the Plan.
- 7.42 The policy has regard to national policy in the NPPF. In the round, the policy meets the basic conditions. It will contribute to the delivery of the environmental dimension of sustainable development.

#### BCS8 Local Green Spaces

- 7.43 This policy addresses the designation of local green spaces (LGSs). It includes material modifications which do not change the nature of the Plan.
- 7.44 The policy remains underpinned by the Landscape and Local Green Space report associated with the ‘made’ Plan. I am satisfied that the LGSs continue to meet the requirements for such designation in the NPPF.
- 7.45 I recommend a specific modification to the wording used in the policy to reflect the way in which policies for the designation of LGSs have matured since the Plan was made. Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the environmental dimension of sustainable development.

#### **Replace ‘permitted’ with ‘supported’**

#### BCS9 Local Gaps

- 7.46 This policy includes material modifications which do not change the nature of the Plan. They are intended remove some confusion about how this policy and Policy BCS1 (on the Village Boundary) operate together. They also intend to improve the previous policy wording. Its wording reflects the numbering of the new policies in the Plan.
- 7.47 In the round, the policy takes a positive approach to this matter. It seeks to protect the essential countryside character of two key areas between the settlements of Brightwell-cum-Sotwell and Mackney and between Brightwell-cum-Sotwell and Wallingford (‘the Slade End Gap’), in order to prevent coalescence between these separate settlements and to protect their distinctive individual character and setting.
- 7.48 I am satisfied that the policy meets the basic conditions. It will contribute to the delivery of the environmental dimension of sustainable development.

### BCS10 Landscape Character and the Villages

- 7.49 This policy includes material modifications which do not change the nature of the Plan. They add a small number of specific key views that are integral to the enjoyment of the landscape and the village setting within it. The views are underpinned by the Key Views Analysis.
- 7.50 The policy takes an informed and non-prescriptive approach. I am satisfied that the policy meets the basic conditions. It will contribute to the delivery of the environmental dimension of sustainable development.

### BCS11 Dark Skies

- 7.51 This is a new policy. BCSPC considers that its proposed approach to dark skies is well suited to a rural location and a settlement in the vicinity of a much larger urban neighbour and that it contributes to maintaining a clear distinction between the two areas.
- 7.52 This policy seeks to safeguard the dark skies in the neighbourhood area. It comments that proposals for development will only be supported where it is demonstrated that, if external lighting is required, light pollution has been reduced wherever possible, or as a minimum, kept to current levels through the application of three criteria. It also makes specific reference to technical guidance produced by the Institute of Lighting Engineers (ILE).
- 7.53 In principle, a policy which seeks to safeguard dark skies can meet the basic conditions. However, as submitted, the policy is very prescriptive and it seeks to ensure that lighting levels are retained at current levels. In some cases, this may be practicable and in other cases it will not be the case. In addition, there is the potential for the policy to conflict with other policies in the Plan which support new development.
- 7.54 To remedy these issues I recommend that the policy is modified. The recommended modifications retain the generality of the approach taken and the connection of the policy to ILE guidance. The revised policy will have the clarity required by the NPPF and allow SODC to implement it in a consistent way throughout the Plan period.
- 7.55 The policy will contribute to the social and environmental dimensions of sustainable development.

#### **Replace the policy with:**

**‘Development proposals should conserve and enhance relative tranquillity in relation to light pollution and dark night skies.**

**Development proposals should also demonstrate that they meet or exceed the Institute of Lighting Professionals guidance and other relevant standards or guidance (CIE 150:2003 Guide on the Limitation of the Effects of Obtrusive Light from Outdoor Lighting Installations), or any equivalent replacement/updated guidance for lighting within environmental zones.**



**Development proposals which include lighting should ensure that:**

- **the measured and observed sky quality in the surrounding area is not reduced;**
- **the lighting concerned is not unnecessarily visible in nearby designated and key habitats;**
- **the visibility of lighting from the surrounding landscape is avoided; and**
- **building designs avoid large areas of glazing which would result in light spillage into rural and unlit areas.'**

BCS12 The Green Heart

- 7.56 This policy includes material modifications which do not change the nature of the Plan. The modifications seek to ensure that the now identified Key Views are protected.
- 7.57 The policy takes an informed and non-prescriptive approach. I am satisfied that the policy meets the basic conditions. It will contribute to the delivery of the environmental dimension of sustainable development.

BCS13 Local Nature Recovery

- 7.58 This policy includes material modifications which do not change the nature of the Plan. The modifications reflect the advent of the principles of local nature recovery alongside biodiversity net gain in the Environment Act 2021.
- 7.59 The policy takes a positive approach to this matter and seeks to implement the details of the Environment Act 2021. Nevertheless as SODC comment is important that the policy acknowledges that it may not be possible, or appropriate, to expect all forms of development to contribute to nature recovery. I recommend a modification to the opening element of the policy to remedy this matter. Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the environmental dimension of sustainable development.

**Replace the opening element of the first part of the policy with:**

**'As appropriate to their scale, nature and location, development proposals should contribute to the recovery of local nature in the Parish and respond positively to the following matters:**

BCS14 Natural Flood Management

- 7.60 This is a new policy. It captures the importance of natural flood management measures in reducing flood risk as well as wider ecosystem benefits which such measures may deliver. It also takes account of the position of the parish at the head of a small catchment that feeds the Millbrook prior to its confluence with the Thames at Wallingford.
- 7.61 The policy takes an informed and balanced approach to this matter. It is designed to be operated in a proportionate way. I am satisfied that the policy meets the basic conditions. It will contribute to the delivery of the environmental dimension of sustainable development.

#### BCS15 Footpaths & Bridleways

- 7.62 The policy remains unchanged from the made Plan.
- 7.63 I am satisfied that it continues to meet the basic conditions.

#### BCS16 Renewable Energy

- 7.64 This policy includes material modifications which do not change the nature of the Plan. The modifications extend the scope of support of the policy to other forms of renewable energy generation that may be suitable to this location, as well as a solar array, and seeks to ensure that the now identified Key Views are protected.
- 7.65 In general terms the policy takes a positive approach to this matter. In addition, I am satisfied that the criteria used in the policy are both appropriate and locally-distinctive. Nevertheless, I recommend a series of specific modification to the wording used in the policy to bring the clarity required by the NPPF and to allow it to be applied consistently by SODC within the Plan period. Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the environmental dimension of sustainable development.

**In the opening part of the policy delete ‘in principle’**

**In i replace ‘suit’ with ‘respect’**

**In ii replace ‘it is.... significant harm’ with ‘they are effectively screened and do not cause unacceptable harm’**

**In iii replace ‘significant’ with ‘unacceptable’**

**In iv replace ‘substantial’ with ‘unacceptable’**

**In iii, iv and v replace ‘it will’ with ‘they will’**

#### BCS17 Community Facilities

- 7.66 This policy includes material modifications which do not change the nature of the Plan. This replacement policy improves the clarity of the policy by bringing the buildings and land to which it applies into the policy itself and showing them on the Policies Map. It also reflects the adoption of Policy CF1 in the Local Plan and changes to the Use Class Order (notably new Class E). Rather than attempt to modify the existing wording, the submitted Plan incorporates new wording.
- 7.67 The policy continues to take a balanced approach towards community facilities. It celebrates their importance and acknowledges that their commercial viability may alter in the Plan period and that alternative and/or replacement facilities may come forward.
- 7.68 I recommend detailed modifications to the second part of the policy to bring the clarity required by the NPPF and to correct typographic errors. SODC suggests that final part of the policy (on new community facilities) is modified so that the focus is on land within the village boundary. I have taken account of BCSPC’s responses to the clarification note on this matter. On the balance of the evidence, I am satisfied that the policy as



submitted meets the basic conditions. The potential development of new community facilities outside the village boundary is a matter which can be controlled by other policies in the development plan and through the usual application of the development management process. In addition, a prescriptive approach on this matter may prevent innovative schemes from coming forward.

- 7.69 Otherwise, the policy meets the basic conditions. It will contribute to the delivery of the social and the environmental dimensions of sustainable development.

**In the second part of the policy replace ‘permitted’ with ‘supported’ and ‘existing community’ with ‘existing community facility’**

#### BCS18 Tourism Facilities

- 7.70 The policy remains unchanged from the made Plan.
- 7.71 I am satisfied that it continues to meet the basic conditions.

#### BCS19 Natural Burial Ground

- 7.72 The policy remains unchanged from the made Plan.
- 7.73 I am satisfied that it continues to meet the basic conditions.

#### Other Matters - General

- 7.74 This report has recommended a series of modifications both to the policies and to the supporting text in the submitted Plan. Where consequential changes to the text are required directly as a result of my recommended modification to the policy concerned, I have highlighted them in this report. However other changes to the general text may be required elsewhere in the Plan as a result of the recommended modifications to the policies. Similarly, changes may be necessary to paragraph numbers in the Plan or to accommodate other administrative matters. It will be appropriate for SODC and BCSPC to have the flexibility to make any necessary consequential changes to the general text. I recommend accordingly.

*Modification of general text (where necessary) to achieve consistency with the modified policies and to accommodate any administrative and technical changes.*

#### Other Matters – Specific

- 7.75 SODC has made a series of helpful comments on the Plan. I have included them in the recommended modifications on a policy-by-policy basis where they are required to ensure that the Plan meets the basic conditions.
- 7.76 I also recommend other modifications to the text of the Plan based on SODC’s comments insofar as they are necessary to ensure that the Plan meets the basic conditions. In the main they will bring the Plan up-to-date. Other matters relate to the more general parts of the Plan. They have been agreed by BCSPC. SODC also highlights a series of typographic changes to the Plan. It would be entirely appropriate for these corrections to be incorporated into the referendum version of the Plan.

*Modification of general text to update the Plan (SODC comments 1 to 8; 10; 12-13; 15 to 17; 19 to 38 and 40 and correct errors (SODC comments 1– 29)*

Other Matters – Proposals included in the representations from the development industry

- 7.77 I have set out elsewhere in this report that my role is to examine the Plan as submitted and not to examine an alternative Plan. BCSPC is entitled to review the made Plan within the context provided by the adopted Local Plan. Nevertheless, I have taken account of the representation received from the development industry both generally and on their commentary on specific policies.
- 7.78 I have made specific comments in paragraph 7.35 of this report about the recommended modifications to Policy BCS5 and their relationship to the contents of the representations made by the development industry

## 8 Summary and Conclusions

### *Summary*

- 8.1 The Review of the 'made' Plan sets out a range of policies to guide and direct development proposals in the period up to 2035. It has been carefully prepared to refresh the Plan and to address changes in national and local planning policy which have arisen since the initial plan was 'made'

### *Conclusion*

- 8.2 Following my independent examination of the Plan I have concluded that the Brightwell-cum-Sotwell Neighbourhood Development Plan Review meets the basic conditions for the preparation of a neighbourhood plan subject to a series of recommended modifications.
- 8.3 The recommended modifications refine the wording of the policies concerned. Nevertheless, the submitted review of the Plan remains fundamentally unchanged in its role and purpose.
- 8.4 I recommend that South Oxfordshire District Council should make the submitted Plan with the modifications specified in this report.
- 8.5 I am grateful to everyone who has helped in any way to ensure that this examination has run in a smooth manner. SODC managed the process in a very efficient way and the BCSPC's response to the clarification note was both thorough and helpful.

**Andrew Ashcroft**  
**Independent Examiner**  
**15 September 2023**