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and examinations

# **Report on the Chesil Bank Neighbourhood Plan 2022 - 2032**

**An Examination undertaken for Dorset Council with the support of Chesil Bank Parish Council on the December 2022 submission version of the Plan.**

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Date of Report: 23 May 2023

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## **Main Findings - Executive Summary**

From my examination of the Chesil Bank Neighbourhood Plan (CBNP/the Plan) and its supporting documentation including the representations made, I have concluded that subject to the policy modifications set out in this report, the Plan meets the Basic Conditions.

I have also concluded that:

- The Plan has been prepared and submitted for examination by a qualifying body – the Chesil Bank Parish Council;
- The Plan has been prepared for an area properly designated – the Chesil Bank Neighbourhood Area as shown on page 1 of the Plan;
- The Plan specifies the period during which it is to take effect: 2022 - 2032; and
- The policies relate to the development and use of land for a designated neighbourhood area.

I recommend that the Plan, once modified, proceeds to referendum on the basis that it has met all the relevant legal requirements.

I have considered whether the referendum area should extend beyond the designated area to which the Plan relates and have concluded that it should not.

## **1. Introduction and Background**

### **Chesil Bank Neighbourhood Plan 2022–2032**

1.1 The Chesil Bank Parish Council (CBPC) includes the parishes of Abbotsbury, Portesham, Langton Herring and Fleet, which extend from Chickerell which is on the western edge of the built up area of Weymouth along the coast to Abbotsbury, with its inland extremity being the northern most point of Portesham parish, alongside the Hardy Monument. The dominant physical feature is the shingle bar of Chesil Beach with the West Fleet and East Fleet lagoons to its rear. Outstanding views of this striking feature are obtained from the inland ridges which extend approximately parallel to the coast from Weare Hill west of Abbotsbury to Friar Waddon Hill east of Portesham and include fine high level public rights of way, amongst which are the Hardy Way, the South Dorset Ridgeway and the Jubilee Trail. The population of CBPC is about 1,400, most of whom live in the four villages, especially Portesham.<sup>1</sup>

1.2 The formal process to prepare a neighbourhood plan for Chesil Bank began in 2018 with a public meeting and the subsequent formation of a Steering Group. Various surveys and consultations took place and the Plan was finally submitted to Dorset Council (DC) in December 2022 representing over four years work for those involved.

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<sup>1</sup> CBNP: page 9 Table 1.

## The Independent Examiner

- 1.3 As the Plan has now reached the examination stage, I have been appointed as the examiner of the CBNP by DC with the agreement of the CBPC.
- 1.4 I am a chartered town planner and former government Planning Inspector and have experience of examining neighbourhood plans. I am an independent examiner, and do not have an interest in any of the land that may be affected by the Plan.

## The Scope of the Examination

- 1.5 As the independent examiner, I am required to produce this report and recommend either:
- (a) that the neighbourhood plan is submitted to a referendum without changes; or
  - (b) that modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
  - (c) that the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.
- 1.6 The scope of the examination is set out in Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 (as amended) ('the 1990 Act'). The examiner must consider:
- Whether the plan meets the Basic Conditions.
  - Whether the plan complies with provisions under s.38A and s.38B of the Planning and Compulsory Purchase Act 2004 (as amended) ('the 2004 Act'). These are:
    - it has been prepared and submitted for examination by a qualifying body, for an area that has been properly designated by the local planning authority;
    - it sets out policies in relation to the development and use of land;
    - it specifies the period during which it has effect;
    - it does not include provisions and policies for 'excluded development'; and
    - it is the only neighbourhood plan for the area and does not relate to land outside the designated neighbourhood area.

- Whether the referendum boundary should be extended beyond the designated area, should the plan proceed to referendum.
  - Such matters as prescribed in the Neighbourhood Planning (General) Regulations 2012 (as amended) ('the 2012 Regulations').
- 1.7 I have considered only matters that fall within Paragraph 8(1) of Schedule 4B to the 1990 Act, with one exception. That is the requirement that the Plan is compatible with the Human Rights Convention.

## The Basic Conditions

- 1.8 The 'Basic Conditions' are set out in Paragraph 8(2) of Schedule 4B to the 1990 Act. In order to meet the Basic Conditions, the neighbourhood 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 for the area;
  - be compatible with and not breach European Union (EU) obligations (under retained EU law)<sup>2</sup>; and
  - meet prescribed conditions and comply with prescribed matters.
- 1.9 Regulation 32 of the 2012 Regulations prescribes a further Basic Condition for a neighbourhood plan. This requires that the making of the Plan does not breach the requirement of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.<sup>3</sup>

## 2. Approach to the Examination

### Planning Policy Context

- 2.1 The current Development Plan for the Chesil Bank Neighbourhood Area, excluding policies relating to minerals and waste development, includes The West Dorset, Weymouth and Portland Local Plan (WDWPLP), prepared jointly by West Dorset District Council and Weymouth and Portland Borough Council, and adopted October 2015. Appendix 1 of the Basic

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<sup>2</sup> The existing body of environmental regulation is retained in UK law.

<sup>3</sup> This revised Basic Condition came into force on 28 December 2018 through the Conservation of Habitats and Species and Planning (Various Amendments) (England and Wales) Regulations 2018.

Conditions Statement includes an assessment of which policies are strategic produced by Dorset Council to assist Neighbourhood Plan groups.

- 2.2 Work commenced on the review of the WDWPLP, but after April 2019 (when various District and Borough Councils combined into Dorset Council), the decision was taken to start work on a single Dorset Council Local Plan (DCLP). The first draft of the DCLP was published for consultation in January 2021, and includes strategic allocations at the towns. There are no strategic allocations proposed to be made at the larger villages including Portesham village, although the plan would allow windfall and infilling within existing settlements as defined by local plan or neighbourhood plan development boundaries.
- 2.3 The DCLP proposes that the housing target for Neighbourhood Plan areas should be based on: completions since the beginning of the plan period; extant planning permissions; housing allocations; capacity on major sites (of 10 or more dwellings) within defined development boundaries (DDBs) as evidenced through the Strategic Housing Land Availability Assessment (SHLAA); and windfall allowance on minor sites (of less than 10 dwellings). However, it is now anticipated that the next draft of the DCLP will be published in the final quarter of 2024, with the Local Plan likely to be adopted in 2026. As such, the emerging DCLP remains at a relatively early stage of its preparation.
- 2.4 The planning policy for England is set out principally in the National Planning Policy Framework (NPPF). The Planning Practice Guidance (PPG) offers guidance on how this policy should be implemented. A revised NPPF was published in July 2021 and all references in this report are to the July 2021 NPPF and its accompanying PPG.

### Submitted Documents

- 2.5 I have considered all policy, guidance and other reference documents I consider relevant to the examination, as well as those submitted which include:
  - the draft Chesil Bank Neighbourhood Plan 2022–2032, dated December 2022;
  - the map on page 1 of the Plan which identifies the area to which the proposed Neighbourhood Plan relates;
  - the Consultation Statement, dated October 2022;
  - the Basic Conditions Statement, dated December 2022;
  - the Strategic Environmental Assessment Report, dated April 2022;
  - the Habitat Regulations Assessment Report, dated January 2023;
  - the 'Supporting evidence' documents;
  - all the representations that have been made in accordance with the Regulation 16 consultation; and

- the request for additional clarification sought in my letter of 29 March 2023 to DC and CBPC and the responses dated 10 April from CBPC and 19 and 24 April 2023 from DC.<sup>4</sup>

### Site Visit

2.6 I made an unaccompanied site inspection to the CBNP Area on 5 April 2023 during which, in the afternoon, the weather became unfavourable due to low cloud and poor visibility. I then inspected the area again on 6 April when I was able to visit the high ground and the viewpoints. The purpose of the inspection was to familiarise myself with the area and see relevant locations referenced in the Plan and evidential documents.

### Written Representations with or without Public Hearing

2.7 This examination has been dealt with by written representations. I considered hearing sessions to be unnecessary as the consultation responses clearly articulated the objections to the Plan and presented arguments for and against the Plan's suitability to proceed to a referendum. No requests for a hearing session were received.

### Modifications

2.8 Where necessary, I have recommended modifications to the Plan (**PMs**) in this report in order that it meets the Basic Conditions and other legal requirements. For ease of reference, I have listed these modifications separately in the Appendix to this report.

## 3. Procedural Compliance and Human Rights

### Qualifying Body and Neighbourhood Plan Area

3.1 The Chesil Bank Neighbourhood Plan has been prepared and submitted for examination by CBPC, which is the qualifying body for an area that was originally designated by the former West Dorset District Council on 10 January 2019. On 1 April 2019, West Dorset District Council was replaced by Dorset Council, which carries over the statutory designation.

### Plan Period

3.2 The Plan period is from 2022 to 2032 as clearly stated on the front cover.

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<sup>4</sup> View all the all the relevant Plan documentation, including the core submission documents and correspondence at: <https://www.dorsetcouncil.gov.uk/chesil-bank-neighbourhood-plan> and [CBPCNP Submission and Examination – Vision4Chesil](#)

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## Neighbourhood Plan Preparation and Consultation

- 3.3 The comprehensive Consultation Statement (CS) describes the thorough preparation of the Plan with involvement of the public and various stakeholders at many stages of the process. Following the creation of the Steering Group in 2019, three household surveys were conducted in 2019 and 2020 with a business survey and a young person's survey also in 2020. A "call for sites" exercise was carried out in 2020 and commencing in September 2021 an Options consultation was carried out. Throughout this preparation process the Steering Group was meeting monthly and news about the Plan was posted on Facebook, the CBPC website, the Chesil Magazine and the vision4chesil.org website.<sup>5</sup>
- 3.4 The Pre-Submission Plan was published for consultation under Regulation 14 of the 2012 Regulations from 20 April 2022 for a period of over eight weeks until 20 June 2022. The list of consultees is recorded on pages 9 and 10 of the CS. The list of respondents, the matters raised and the response of the Steering Group and any resulting changes to the Plan are described on pages 12 – 40 of the CS.
- 3.5 The Plan was submitted to DC in December 2022. Consultation in accordance with Regulation 16 was carried out for six weeks from 20 January 2023 until 3 March 2023. 14 representations were received. I am satisfied that a transparent, fair and inclusive consultation process has been followed for the CBNP, that has had regard to advice in the PPG on plan preparation and engagement and is procedurally compliant in accordance with the legal requirements.

## Development and Use of Land

- 3.6 The Plan sets out policies in relation to the development and use of land in accordance with s.38A of the 2004 Act.

## Excluded Development

- 3.7 The Plan does not include provisions and policies for 'excluded development'.<sup>6</sup>

## Human Rights

- 3.8 The Basic Conditions Statement (BCS) advises that no issues have been raised in relation to possible contravention of Human Rights in the consultation undertaken in preparing the Plan and, given the Plan's conclusions on the Plan's general conformity with the strategic policies of the Local Plan and regard to national planning policy, it is reasonable to conclude that the making of the Plan should not breach human rights.

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<sup>5</sup> [Vision4Chesil – Neighbourhood Plan for the Chesil Bank Parishes](#)

<sup>6</sup> The meaning of 'excluded development' is set out in s.61K of the 1990 Act.

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- 3.9 I am aware from the CS that considerable emphasis was placed throughout the consultation process to ensure that no sections of the community were isolated or excluded. I have considered this matter independently and I have found no reason to disagree with the statements in the BCS and I am satisfied that the policies will not have a discriminatory impact on any particular group of individuals.

## 4. Compliance with the Basic Conditions

### EU Obligations

- 4.1 The report of the Strategic Environmental Assessment (SEA) concluded that the Plan should bring forward a series of positive effects and that, although the proposed housing site allocations are sensitive from a landscape and heritage perspective, the policies provide a detailed overview of the proposed mitigation and enhancement measures which would positively address the sensitivities. The SEA was prepared prior to the Regulation 14 Consultation and resulted in a number of minor modifications being recommended to the policies which were accommodated prior to the consultation. In view of the limited scope of the changes to the policies, it was judged to be unnecessary to update the SEA. The three statutory consultees were notified of the report at the Regulation 16 consultation stage and made no adverse comments, other than the comment by the Environment Agency that there was risk of surface water flooding associated with the allocation for one dwelling at Langton Herring (Policy CBNP8 is considered below).
- 4.2 So far as Habitats Regulations Assessment (HRA) is concerned, the Chesil Beach and The Fleet Special Protection Area (SPA), the Chesil Beach and The Fleet Ramsar and the Chesil and The Fleet Special Areas of Conservation (SAC) lie within the Plan area. The Crookhill Brick Pit SAC borders the Plan area to the east. Further distant European designated sites include the Isle of Purbeck to Studland Cliffs SAC (5.7km to the east), the West Dorset Alder Woods SAC (8.5km to the north) and the Cerne and Sydling Downs SAC (8.7km to the north). The HRA considered relevant impact pathways of public access and recreation, functionally linked land, water pollution and air quality. The report concluded that the possible impact from functionally linked land could be screened out, but that access, air pollution and water pollution effects on the protected sites should be considered further in the Appropriate Assessment.
- 4.3 Following Appropriate Assessment, it was concluded that the Plan would not contribute to a significant adverse effect on the integrity of any European site with regards to air quality either alone or in combination with other plans or projects. So far as water pollution is concerned, the Plan has now included Policy CBNP9 requiring nutrient neutrality and, where necessary, appropriate mitigation, for net new residential development. Recreation pressure would be mitigated by the need for net new residential dwellings to make a financial contribution to the delivery

of the Chesil & The Fleet Interim Recreation Mitigation Strategy. Therefore, with those measures, it was concluded that the Plan would not adversely impact European sites either alone or in combination with other plans or projects. Having considered that assessment, Natural England concurred with the conclusions.<sup>7</sup>

- 4.4 I have read the SEA and HRA and the other information provided, and having considered the matter independently, I also agree with the conclusions. Therefore, I am satisfied that the CBNP is compatible with EU obligations as retained in UK law.

### Main Issues

- 4.5 Having considered whether the Plan complies with various procedural and legal requirements, it is now necessary to deal with whether it complies with the remaining Basic Conditions, particularly the regard it pays to national policy and guidance, the contribution it makes to the achievement of sustainable development and whether it is in general conformity with strategic development plan policies. I test the Plan against the Basic Conditions by considering specific issues of compliance of all the Plan's policies.
- 4.6 As part of that assessment, I consider whether the policies are sufficiently clear and unambiguous, having regard to advice in the PPG. A neighbourhood plan policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence.<sup>8</sup>
- 4.7 Accordingly, having regard to the Chesil Bank Neighbourhood Plan, the consultation responses, other evidence<sup>9</sup> and the site visit, I consider that the main issues in this examination are whether the CBNP policies (i) have regard to national policy and guidance, (ii) are in general conformity with the adopted strategic planning policies and (iii) would contribute to the achievement of sustainable development? I shall assess these issues by considering the policies within the themes in the sequence in which they appear in the Plan.

### Vision and Objectives

- 4.8 The overall vision for the CBNP is described in paragraph 4.1.1 on page 17 of the Plan. The vision is then used to develop 5 objectives listed a) to e) in paragraph 4.2.1 of the Plan which set the context for the 31 subsequent land use policies. A representation on behalf of Away Resorts

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<sup>7</sup> Reply from Natural England received on 24 April 2023.

<sup>8</sup> PPG Reference ID: 41-041-20140306.

<sup>9</sup> The other evidence includes the responses dated from DC and the CBPC received on 19 and 24 April from DC and 10 April 2023 from CBPC to the questions in my letter of 29 March 2023.

Ltd commented that the Plan failed to recognise the importance of tourism in the area and suggested additions to objective d). I agree with the comment but, following the response from CBPC, shall recommend an alternative similar modification to objective c). **(PM1)**

#### Policy CBNP1 Dwelling Types

4.9 Policy CBNP1 describes the type and size of dwellings which should primarily be provided in the Plan area. The policy has regard to national guidance<sup>10</sup>, generally conforms with Policies HOUS1 and HOUS3 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP2 Dwelling Extensions

4.10 Policy CBNP2 seeks to limit the size of dwelling extensions to that which is permitted development under the General Permitted Development Order other than where it is to provide for a clearly established local need. I can appreciate the desirability of preventing dwellings becoming too large and hence relatively less affordable. Nevertheless, I consider the proposed limitation is too restrictive and would not generally conform with Policy ENV15 of the WDWPLP which aims to optimise the potential of a site and make efficient use of land. This is echoed by DC in their Regulation 16 response. Should there be a proposed extension which would be too large, the application of Policies ENV12 and ENV16 of the WDWPLP would avoid harm to the character and appearance of the area and avoid harm to neighbours. Therefore, I shall recommend that the policy should be deleted. **(PM2)**

#### Policy CBNP3 Holiday/second home restrictions

4.11 Policy CBNP3 requires any new dwelling to be used as a principal residence in the parishes of Abbotsbury, Fleet and Langton Herring, thereby excluding the parish of Portesham from that restriction. The evidence in paragraphs 5.1.9 – 5.1.11 is persuasive and I found the analysis by DC in their Regulation 16 response particularly helpful. However, I also consider that in order to generally conform with Policies SUS2(iii) and ECON6 of the WDWPLP, the final sentence of Policy CBNP3 should be deleted. **(PM3)** Therefore, subject to that modification, I consider that the policy would have regard to national guidance<sup>11</sup>, would generally conform with Policy HOUS3 of the WDWPLP and would meet the Basic Conditions.

#### Policy CBNP4 Affordable Housing – Local Connection

4.12 Policy CBNP4 prioritises people with a local connection for accommodation in affordable housing; the local connection being defined in the criteria of the Dorset Housing Allocations Policy. The policy has regard to national

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<sup>10</sup> NPPF: paragraphs 56 & 78.

<sup>11</sup> NPPF: paragraphs 78 & 56.

guidance<sup>12</sup>, generally conforms with Policies HOUS1 and HOUS2 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP5 Land east of North Mead Farm (PO-03)

- 4.13 Policy CBNP5 allocates land outside the DDB of Portesham for residential development with at least 50% of them being affordable homes. The policy has regard to national guidance<sup>13</sup>, generally conforms with Policy HOUS2 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP6 Land adjoining Stone Cottage, Fleet (FL-05)

- 4.14 Policy CBNP6 allocates land adjoining Stone Cottage, Fleet for one affordable dwelling to be accessed from the existing access to Stone Cottage. I note that in answer to my questions to DC, the Council commented that the scheme has distinct advantages but that the need for affordable housing in this area must be balanced against the harm to the character and appearance of the Area of Outstanding Natural Beauty (AONB) and Heritage Coast. The provision of an affordable dwelling would be a distinct benefit, but I consider that it would not generally conform with Policy ENV1 i) of the WDWPLP due to its impact on the tranquil character of the landscape. In addition, the lack of facilities serving this area of Fleet would mean that future occupants of the dwelling would be likely to be more dependent on a vehicle for access to basic services such as schools, health care and shops. This is remarked on in the SEA prepared by AECOM.<sup>14</sup>
- 4.15 As I saw on my visit to the area, there are a few houses nearby and the local church, but little else. Fleet is a very dispersed settlement. Therefore, I consider that the allocation would not contribute to the achievement of sustainable development. Consequently, it would not meet the Basic Conditions and should be deleted. **(PM4)** As noted by the Dorset AONB Partnership within the DC response, Chickerell is about 1.5km away, with its strategic allocations for residential development which would offer alternative affordable housing, subject to the eligibility criteria of the Dorset Housing Allocations Policy.<sup>15</sup> CBPC raised Holwell and Upper Marshwood Vale as examples of small scale housing allocations, but I consider that both those settlements have more in the way of a sustainably located centre than the loose knit sparse scatter of dwellings at Fleet.

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<sup>12</sup> NPPF: paragraph 60, 62 & 78.

<sup>13</sup> NPPF: paragraph 60.

<sup>14</sup> SEA AECOM April 2022: pp 38-40.

<sup>15</sup> Chickerell Neighbourhood Plan 2019 – 2036 referendum version May 2021: paragraph 1.10.

#### Policy CBNP7 Land at Higher Farmhouse (LH-01)

- 4.16 Policy CBNP7 allocates land for one dwelling within the grounds of Higher Farmhouse at Langton Herring. The policy would have regard to national guidance<sup>16</sup>, would generally conform with Policy SUS2 of the WDWPLP and meet the Basic Conditions.

#### Policy CBNP8 Land adjoining 4 Court Close (LH-02)

- 4.17 Policy CBNP8 allocates land for one dwelling on an infill plot within Langton Herring. The policy has regard to national guidance<sup>17</sup> and generally conforms with Policy SUS2 of the WDWPLP. The Environment Agency expressed concerns about the risk from surface water flooding at the site. However, I note that the policy includes a requirement for the inclusion of a drainage scheme to deal with the potential flood risk. Moreover, any proposal would have to satisfy the sequential test and exception test as outlined in the PPG, given that they were not applied at the allocation stage. Therefore, I am content that the policy meets the Basic Conditions.

#### Policy CBNP9 Ensuring Nutrient Neutrality

- 4.18 Under Policy CBNP9, applications for net new residential development will only be supported if nutrient neutrality can be demonstrated or appropriate mitigation can be delivered. The policy has regard to national guidance<sup>18</sup>, generally conforms with Policy ENV2 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP10 Sustainable Business Growth

- 4.19 Policy CBNP10 supports small-scale business growth within or adjoining the settlements of Abbotsbury, Portesham, Langton Herring and Fleet. DC expressed concerns about the inclusion of Fleet within that section of the policy because of its dispersed settlement pattern and I agree. Therefore, I shall recommend the deletion of Fleet from the first sentence of the policy. **(PM5)** Subject to that modification, the policy would have regard to national guidance<sup>19</sup>, would generally conform with Policy ECON1 of the WDWPLP and would meet the Basic Conditions.

#### Policy CBNP11 Homeworking

- 4.20 Policy CBNP11 supports the provision of outbuildings for homeworking subject to three criteria. In their Regulation 16 consultation response, DC noted the permitted development rights under the General Development Order which would enable single storey outbuildings to be constructed

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<sup>16</sup> NPPF: paragraph 60.

<sup>17</sup> NPPF: paragraph 60 & 159.

<sup>18</sup> NPPF: paragraph 179.

<sup>19</sup> NPPF: paragraph 85.

over a significant area of the curtilage, but also drew attention to the constraints such as an AONB location and where development has already been granted for change of use under the Order. Within DDBs, development to meet the needs of the area will normally be permitted under WDWPLP Policy SUS2 ii). Outside DDBs, proposals for outbuildings would fall to be considered under WDWPLP Policies ENV16 and ENV1 i), amongst others. Therefore, subject to the inclusion of a phrase within the policy, which I shall recommend, recognising Policy ENV1, I am satisfied that the policy would have regard to national guidance<sup>20</sup>, would generally confirm with Policy ECON1 of the WDWPLP and meet the Basic Conditions. **(PM6)**

#### Policy CBNP12 Community and recreational facilities

4.21 Policy CBNP12 supports proposals to expand existing community, recreational and leisure facilities within or adjoining the four settlements in the Plan area. The policy would also not support development which would lead to the loss of any key facility. Subject to the removal of the final sentence of the policy to the preceding section of evidence, it would have regard to national guidance<sup>21</sup>, would generally conform with Policy COM2 of the WDWPLP and would meet the Basic Conditions. **(PM7)**

#### Policy CBNP13 Recreational access to the countryside

4.22 Policy CBNP13 supports the improvement and expansion of existing public rights of way, permissive paths and open access land and seeks to prevent development which would have an adverse effect on public rights of way. The policy has regard to national guidance<sup>22</sup>, generally conforms with Policy COM7 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP14 Local Green Spaces

4.23 Policy CBNP14 provides for eighteen Local Green Spaces (LGS) listed in Table 3 and states that, other than in very special circumstances, no inappropriate development will be permitted that would harm their reason for designation. As explained in the NPPF, LGS designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.<sup>23</sup> LGS should also be capable of enduring beyond the end of the Plan period.<sup>24</sup>

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<sup>20</sup> NPPF: paragraph 85.

<sup>21</sup> NPPF: paragraph 84.

<sup>22</sup> NPPF: paragraphs 98 & 100.

<sup>23</sup> NPPF: paragraph 102.

<sup>24</sup> NPPF: paragraph 101.

4.24 I saw each LGS on my visit to the area and consider that they meet the criteria for designation outlined in the NPPF. I note that The Old Railway Track between Abbotsbury and Portesham is a bridleway within a linear corridor which national guidance states already receives protection under other legislation.<sup>25</sup> However, in this case, I recognise the width of the feature, its recreational and wildlife value and I accept that it should become LGS. Therefore, I consider that Policy CBNP14 has regard to national guidance, generally conforms with Policy ENV3 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP15 Local Landscape Features

4.25 Policy CBNP15 seeks to safeguard the local landscape character and its typical features. The policy has regard to national guidance<sup>26</sup>, generally conforms with Policies ENV1 & ENV10 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP16 Local Views

4.26 Policy CBNP16 aims to minimise adverse impacts on views from public rights of way over open countryside and coast, particularly towards local landmarks, and preserve such views where possible. The policy has two elements to it. The first is to minimise adverse impacts; the second is to preserve the views where possible. I consider the first is sensible; the second is unrealistic. Views from public rights of way are extensive and do not discriminate the good from the indifferent, but seeking to minimise adverse impacts is less restrictive than the relative impossibility, from a development management perspective, of preserving the views. I visited the viewpoints marked on the Policies Maps on my inspection of the area and am familiar with those along Chesil Beach from previous recreational visits to the Dorset coast.

4.27 In my opinion, the Policies Maps highlight the outstanding views in the Plan area, identifying those which are characteristic of the dramatic coastline and its hinterland. Many focus on Chesil Beach and the Fleet Lagoon, but the panoramic view inland from St Catherine's Chapel is of equal merit, albeit lacking the visual impact of the seascape.

4.28 I agree with the DC comments on the generality of the protection of views in neighbourhood plans. All too often, the protection of views can be seen as a means of merely safeguarding the outlook from residential properties over ordinary and featureless agricultural land in order to prevent development. However, in this case, the views in the Plan area towards the coast and along it are iconic and, in my experience of walking virtually the whole length of the South West Coast Path, are unrivalled in their beauty. Therefore, I support the policy in principle, but consider it should avoid the aim to preserve all views from public rights of way and should

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<sup>25</sup> PPG Reference ID: 37-018-20140306.

<sup>26</sup> NPPF: paragraph 174.



reference the significant local views which are on the Policies Maps of the Plan. Subject to those recommended modifications, the policy would have regard to national guidance<sup>27</sup>, would generally conform with Policy ENV1 of the WDWPLP and would meet the Basic Conditions. **(PM8)** DC suggested that the splay of the view on the Policies Maps should be shown but, in my opinion, the margins of a splay would be open to dispute and would only offer spurious clarity which would not enable effective development management.

#### Policy CBNP17 Dark Skies and Lighting Schemes

4.29 Policy CBNP17 aims to minimise light pollution and has regard to national guidance<sup>28</sup>, generally conforms with Policy ENV16 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP18 Local Wildlife and Habitats

4.30 Policy CBNP18 seeks to protect biodiversity and, where possible, enhance it. In accordance with the conclusions of the Appropriate Assessment in the HRA report, I shall recommend the inclusion of a sentence seeking a financial contribution as part of the mitigation strategy for residential development which might affect the Chesil Beach and Fleet European Sites. **(PM9)** Subject to that modification, the Policy would have regard to national guidance<sup>29</sup>, would generally conform with Policy ENV2 and would meet the Basic Conditions.

#### Policy CBNP19 Local Heritage Assets

4.31 Policy CBNP19 requires development to make a positive contribution to the conservation of heritage assets and pay particular regard to understanding and preserving their settings. The subsequent section of the policy then considers non designated heritage assets (NDHA). The policy has regard to national guidance<sup>30</sup>, generally conforms with Policy ENV4 of the WDWPLP and meets the Basic Conditions. DC suggested that all the NDHA could be identified on more detailed maps. However, the numbers of buildings and other structures included within Table 4 and in Policy CBNP19 would make this a challenging task and, although beneficial, is not required in order to enable the Plan to meet the Basic Conditions

#### Policy CBNP20 Local Flood Risk in Portesham

4.32 Policy CBNP20 requires a Flood Risk Assessment (FRA) to be submitted in support of all proposals for development within the catchment area which would result in increased surface water run-off in Portesham village. Given

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<sup>27</sup> NPPF: paragraph 174.

<sup>28</sup> NPPF: paragraph 185.

<sup>29</sup> NPPF: paragraphs 174 & 179.

<sup>30</sup> NPPF: paragraphs 189 & 203.

the evidence of the 2019 flooding in Portesham and the subsequent Flood Investigation Report, I am satisfied that the local FRA as sought in the policy has regard to national guidance<sup>31</sup>, generally conforms with Policy ENV5 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP21 Portesham's Development Boundary

4.33 CBNP21 amends the development boundary of Portesham to include sites which have been developed since the WDWPLP was adopted and to exclude certain areas of LGS and safeguarded community facilities with associated grounds. The policy has regard to national guidance<sup>32</sup>, generally conforms with Policy SUS2 of the WDWPLP and meets the Basic Conditions.

#### Policy CBNP22 Chesil Bank Design Guidance

4.34 Policy CBNP22 seeks sustainable high quality design and a demonstration of how proposed development has followed the Chesil Bank Neighbourhood Plan Design Codes, July 2021 and the National Design Guide. The policy has regard to national guidance<sup>33</sup>, generally conforms with Policies ENV11, ENV12 and ENV13 of the WDWPLP and meets the Basic Conditions.

#### Policies CBNP23 – CBNP31 Design Code details

4.35 Policies CBNP23 – CBNP31 relate to detailed elements of the Design Code. Each policy has regard to national guidance<sup>34</sup>, generally conforms with Policies ENV11, ENV12 and ENV13 of the WDWPLP, meets the Basic Conditions and therefore is not the subject of any recommended modification.

#### Projects

4.36 Three Projects are separately identified within relevant sections of the Plan. These are items which the community is seeking but cannot be delivered through planning policies, which are not considered as part of the examination and which will not form part of the statutory Development Plan. Nevertheless, they represent aspirations which would benefit the community and demonstrate an attribute of the neighbourhood planning process.<sup>35</sup>

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<sup>31</sup> NPPF: paragraph 159 & 169.

<sup>32</sup> NPPF: paragraph 78.

<sup>33</sup> NPPF: paragraph 127.

<sup>34</sup> NPPF: Section 12.

<sup>35</sup> PPG Reference ID: 41-004-20190509.

## Overview

- 4.37 Therefore, on the evidence before me, with the recommended modifications, I consider that the policies within the CBNP are in general conformity with the strategic policies of the WDWPLP, have regard to national guidance, would contribute to the achievement of sustainable development and so would meet the Basic Conditions.
- 4.38 A consequence of the acceptance of the recommended modifications would be that amendments would have to be made to the explanation within the Plan in order to make it logical and suitable for the referendum. These might also include incorporating factual updates, correcting minor inaccuracies and the renumbering of paragraphs and policies. None of these alterations would affect the ability of the Plan to meet the Basic Conditions and could be undertaken as minor, non-material changes.<sup>36</sup>

## 5. Conclusions

### Summary

- 5.1 The Chesil Bank Neighbourhood Plan has been duly prepared in compliance with the procedural requirements. My examination has investigated whether the Plan meets the Basic Conditions and other legal requirements for neighbourhood plans. I have had regard to all the responses made following consultation on the CBNP, and the evidence documents submitted with it.
- 5.2 I have made recommendations to modify a number of policies to ensure the Plan meets the Basic Conditions and other legal requirements. I recommend that the Plan, once modified, proceeds to referendum.

### The Referendum and its Area

- 5.3 I have considered whether or not the referendum area should be extended beyond the designated area to which the Plan relates. The CBNP as modified has no policy or proposal which I consider significant enough to have an impact beyond the designated Neighbourhood Plan boundary, requiring the referendum to extend to areas beyond the Plan boundary. I recommend that the boundary for the purposes of any future referendum on the Plan should be the boundary of the designated Neighbourhood Plan Area.

### Concluding Comments

- 5.4 The CBNP Steering Group and other voluntary contributors are to be commended for their efforts in producing a Plan which has the merits of being concise and comprehensive. The Plan is logical, very informative

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<sup>36</sup> PPG Reference ID: 41-106-20190509.

and well-illustrated. I enjoyed examining it and visiting the area. The Consultation Statement and the Basic Conditions Statement were extremely useful, as were the constructive responses from the CBPC and DC to my questions of clarification.

- 5.5 Subject to the recommended modifications, the CBNP will make a positive contribution to the Development Plan for the area and should enable the very attractive character and appearance of Chesil Bank Parish to be maintained whilst enabling sustainable development to proceed.

*Andrew Mead*

Examiner

## Appendix: Modifications

<b>Proposed modification no. (PM)</b>	<b>Page no./ other reference</b>	<b>Modification</b>
PM1	Objective c)	Amend objective to:  <b>“To encourage small scale businesses that will support a range of businesses, tourist attractions and accommodation, shops and community services that meet the needs of local people and visitors and protects and enhances the quality of the local environment.”</b>
PM2	Policy CBNP2	Delete the policy.  Delete the first bullet point of paragraph 5.1.6 and all of paragraphs 5.1.7 and 5.1.8.
PM3	Policy CBNP3	Delete the final sentence.
PM4	Policy CBNP6	Delete the policy.  Delete the sub heading “ <del>Land adjoining Stone Cottage</del> ” and the paragraphs that follow from 5.2.9 – 5.2.12.
PM5	Policy CBNP10	Amend the policy to:  <b>“... settlements of Abbotsbury, Portesham and Langton Herring or through the reuse ...”</b> .
PM6	Policy CBNP11	Amend the policy to:  <b>“The provision of outbuildings for home working should be supported, subject to Policy ENV1 of the WDWPLP, provided ...”</b> .
PM7	Policy CBNP12	Delete the final sentence of the policy and relocate to the end of paragraph 7.1.3.
PM8	Policy CBNP16	Amend the policy to:  <b>“The design and layout of development should minimise adverse impacts on the significant views over open countryside and coast identified on the Policies Maps and the Appendix, particularly towards local landmarks, and enhance such views where possible.”</b>

PM9	Policy CBNP18	Add a final sentence to the policy: <b>“Net new residential dwellings within the Neighbourhood Area will make a financial contribution to delivery of the Chesil &amp; Fleet Interim Recreation Mitigation Strategy, in line with Dorset Council guidance.”</b>
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