

:

INDEPENDENT EXAMINER'S REPORT OF

THE OLDBURY PARISH NEIGHBOURHOOD DEVELOPMENT PLAN

Deborah McCann

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SECTION 2

Summary

As the Independent Examiner appointed by South Gloucestershire Council in agreement with Oldbury PC to examine the Oldbury Neighbourhood Development Plan, I can summarise my findings as follows:

- 1. I find the Oldbury Neighbourhood Development Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.*
- 2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Oldbury Neighbourhood Development Plan go to Referendum.*
- 3. I have read the Oldbury Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflects the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.*
- 4. I find that the Oldbury Neighbourhood Development Plan can, subject to the recommended modifications proceed to Referendum.*
- 5. At the time of my examination the adopted local plan was the South Gloucestershire Local Plan (Core Strategy, 2013 and the Policies, Sites and Places Plan, 2017)*

SECTION 3

3.Introduction

3.1. Neighbourhood Plan Examination.

My name is Deborah McCann and I am the Independent Examiner appointed to examine the Oldbury Neighbourhood Development Plan.

I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.

My role is to consider whether the submitted Oldbury Neighbourhood Development Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Oldbury Neighbourhood Development Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.

The Oldbury Neighbourhood Development Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I did require clarification on a number of issues. These points were dealt with by written representations in a question and answer format. This additional information is publicly available on the South Gloucestershire Council website and covered in my report within the relevant policy.

3.2. The Role of Examiner including the examination process and legislative background.

The examiner is required to check whether the neighbourhood plan:

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

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

As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:

1. The Plan can proceed to a Referendum
2. The Plan with recommended modifications can proceed to a Referendum

Where a policy does not meet the Basic Conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.” As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with ‘Wider Community Aspirations’. I will not generally refer back to parties on these detailed revisions. I will make modification either in order to meet the Basic Conditions, to correct errors or

provide clarification. However, the focus of my examination, as set out in legislation is relatively narrow, I must focus on compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I am also very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community's intent in producing their neighbourhood plan.

3. The Plan does not meet the legal requirements and cannot proceed to Referendum

I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Oldbury Neighbourhood Development Plan go to Referendum.

In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004:

- The Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect - the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:

- Has regard to national policies and advice contained in guidance issued by the

Secretary of State;

- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements.

South Gloucestershire Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e. greater than 50%), voting in favour of the plan, then the Local Planning Authority must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.

SECTION 4

4.The Report

4.1. Appointment of the Independent examiner

South Gloucestershire Council appointed me as the Independent Examiner for the Oldbury Neighbourhood Development Plan with the agreement of Oldbury Parish Council.

4.2. Qualifying body

I am satisfied that Oldbury Parish Council is the Qualifying Body.

4.3. Neighbourhood Plan Area

Oldbury Parish Council applied for designation as a Neighbourhood Plan Area on the 29th September 2016 under Planning Regulations 2012 (part 2 S6) and

the designation was approved by South Gloucestershire Council on the 27th of October 2016.

The designated Oldbury Neighbourhood Area covers the Parish of Oldbury.

The Basic Conditions Statement submitted with the Oldbury Neighbourhood Development Plan confirms there are no other Neighbourhood Plans covering the Area of the Oldbury Neighbourhood Development Plan.

4.4. Plan Period

The Basic Conditions Statement states that the Oldbury Neighbourhood Development Plan will cover the period 2018-2036.

4.5. South Gloucestershire Council initial assessment of the Plan (Regulation 15).

Oldbury Parish Council submitted the draft Oldbury Neighbourhood Plan to South Gloucestershire Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 on the 14th October 2020. South Gloucestershire

Council made an initial assessment of the Neighbourhood Development Plan and the supporting documents and is satisfied that these comply with the specified criteria.

4.6 Site Visit

I carried out an unaccompanied site visit on the 4th of October 2021 to familiarise myself with the Neighbourhood Plan Area.

4.7. The Consultation Process

The Oldbury Neighbourhood Development Plan has been submitted for examination with a Consultation statement which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

- (a) It contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;
- (b) It explains how they were consulted; (c) It summarises the main issues and concerns raised by the persons consulted; and
- (d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed neighbourhood development plan.

Examination of the documents and representations submitted in connection with this matter have led me to conclude that the consultation process was thorough, well conducted and recorded.

A list of statutory bodies consulted is included in the Consultation Statement.

4.8. Regulation 16 consultation by South Gloucestershire Council and record of responses.

South Gloucestershire Council placed the Oldbury Neighbourhood Development Plan out for consultation under Regulation 16 from Friday 11 June 2021 to Friday 23 July 2021, the 6 week statutory period.

A number of representations were received during the consultation period and these were made available by South Gloucestershire Council as part of the supporting information supplied for the examination process. I considered the representations, have taken them into account in my examination of the plan and made reference to them where appropriate.

4.9. Compliance with the Basic Conditions

A Basic Conditions Statement was produced for the Oldbury Neighbourhood Development Plan. The purpose of this statement is to set out in detail how the Neighbourhood Development Plan, as submitted meets the Basic Conditions. It is the Examiner's Role to take this document into consideration but also make take an independent view as to whether or not the assessment as submitted is correct.

I have to determine whether the Oldbury Neighbourhood Development Plan:

1. Has regard to national policies and advice
2. Contributes to sustainable development
3. Is in general conformity with the strategic policies in the appropriate Development Plan
4. Is not in breach and is otherwise compatible with EU obligations and Human Rights requirements.
5. Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

Documents brought to my attention by South Gloucestershire Council for my examination include:

(a) The Oldbury Neighbourhood Development Plan:

This is the main document, which includes the policies developed by the community.

(b) The Consultation Statement:

This is a statement setting out how the community and other stakeholders have been involved in the preparation of the Oldbury Neighbourhood Development Plan and is supported by an evidence base, which arose from the consultation.

(c) Basic Conditions Statement.

This is a statement setting out how Oldbury Neighbourhood Development Plan Working Group considers that the Neighbourhood Development Plan meets the Basic Conditions. This statement also includes the screening report for the Strategic Environmental Appraisal and Habitats Regulations Assessment and addresses how the plan contributes to the achievement of sustainable development.

(d) Oldbury Neighbourhood Development Plan (submission version) Appendix 1.

(e) SEA Statement of Determination (including Screening Opinion).

Comment on Documents submitted

I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Oldbury Neighbourhood Development Plan does, subject to the recommended modifications, meet the Basic Conditions.

4.10 Planning Policy

4.10.1. National Planning Policy

National Policy guidance is set out in the National Planning Policy Framework (NPPF). During the course of my examination of the Neighbourhood Plan, a revised version of the NPPF was issued and the relevant NPPF for the purposes of my examination is the National Planning Policy Framework (NPPF) July 2021 (as updated).

To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan “must be in general conformity with the strategic policies of the local plan”.

Paragraph 29 states:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

The Oldbury Neighbourhood Development Plan does not need to repeat national policy, but to demonstrate it has taken them into account.

I have examined the Oldbury Neighbourhood Development Plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to modification does meet the Basic Conditions in this respect.

4.10.2. Local Planning Policy- The Development Plan

Oldbury lies within the area covered by South Gloucestershire Council. The relevant development plan is the South Gloucestershire Local Plan 2013 – 2031 (adopted 2016).

4.10.3 To meet the Basic Conditions, the Oldbury Neighbourhood Development Plan must be in “general conformity” with the strategic policies of the development plan.

The NPPF 2021 (updated) states:

“20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision¹² for:

a) housing (including affordable housing), employment, retail, leisure and other commercial development;

b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);

c) community facilities (such as health, education and cultural infrastructure); and

d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

4.10.4 Neighbourhood Plans should only contain non-strategic policies. The NPPF 2021(updated) states:

“Non-strategic policies

28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

4.10.5 Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.

4.10.6 The distinction between strategic and non-strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e)) When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.

4.10.7 Planning Policy Guidance paragraph 41-076-20140306 sets out that:

“Strategic policies will be different in each local planning authority area. When reaching

a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic”

I have considered the Strategic policies of the Development Plan and the Policies of the Oldbury Neighbourhood Development Plan and consider that, subject to the recommended modifications, the Plan does meet the Basic Condition in this respect and is in general conformity with the Strategic policies of the South Gloucestershire Council Local Plan 2016.

4.11. Other Relevant Policy Considerations

4.11.1 European Convention on Human Rights (ECMR) and other European Union Obligations

As a ‘local plan’, the Neighbourhood Development Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC Office.

In the case of Directive 2001/42/EC a screening opinion was issued by South Gloucestershire Council in terms of the need for Strategic Environmental Assessment (SEA) on 13 December 2019 on the Regulation 14 version of the Oldbury NDP. The screening report concluded that based on the scale and location of development proposed in the draft plan, and the strategic and local policy framework, that the

Oldbury Parish NDP “was unlikely to have any significant effects on the environment” and therefore a SEA was not required.

Natural England, the Environment Agency and Historic England were consulted as part of the screening process. All three statutory consultees responded to South Gloucestershire Council’s screening opinion. However, both Historic England and Natural England required further information before they could agree with the screening opinion that the Oldbury Neighbourhood Development Plan was unlikely to give rise to significant environmental effects and therefore would not require Strategic Environmental Assessment. The concerns of the Natural England and Historic England was as follows:

1. Natural England’s concerns centred around the proximity of the proposed site allocations to the Severn Estuary and associated Flood Risk.
2. Historic England were concerned that the site allocations assessment carried out by AECOM on behalf of the group had not adequately considered the impact on Heritage Assets.

As a result of the concerns raised there was further dialogue with the statutory consultees and additional information provided by both South Gloucestershire Council and the neighbourhood plan group. A number of changes to the draft plan were agreed to satisfy the concerns raised. These included:

- The addition of text to the site allocations policy relating to the need for Flood Risk Assessment for any new development within the floodplain.
- The reduction of the number of site allocations within the plan to two with the removal of Church Hill East Site 7;
- The change to the boundary extent of Westmarsh Lane Site 9 as well as the requirement for a Landscape and Visual Impact Assessment in the allocation policy; and
- For Westend Lane Site 13, the requirement for a watching brief condition must be changed to a pre-determination assessment as part of the allocation policy.

I am satisfied that the changes made to the draft plan address the concerns raised by the statutory consultees and that the conclusion that the plan did not require a SEA is correct.

Directive 92/43/EEC and Directive 2009/147/EC seek to protect and improve Europe's most important habitats and species. As part of the screening request for the SEA a Habitats Regulations Assessment Screening request was also submitted to South Gloucestershire Council. The Council, as the appropriate body concluded that the plan would not have any significant negative or uncertain effects on the Severn Estuary SPA/Sac/Ramsar site and could therefore be screened out from further consideration under the Habitats that would require consideration under the Habitat Regulations. However, Natural England required the allocations policies and supporting text to be modified remove any reference to the WEJSP and supporting documents (Including the HRA), as they have been withdrawn and include reference to the need contribute to the strategic mitigation measures outlined in the Habitats Regulations Assessment prepared in support of the emerging development plan for South Gloucestershire, should it be concluded that the developments are of a scale as to meet the threshold. NE also required changes to the supporting text of the allocations policies to make clear that a supporting HRA will need to set out any requirements for contributions to strategic mitigation measures for the cumulative effects of development on European protected sites within South Gloucestershire. Detailed information about the threshold for requiring contribution to the strategic mitigation measures will be developed through the process of plan preparation.

I am satisfied with this conclusion.

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for a Neighbourhood Development Plan in addition to those set out in the primary legislation. Being that:

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended) in relation to the examination of neighbourhood development plans.)

I am satisfied that the prescribed conditions have been met.

I am satisfied that the Oldbury Neighbourhood Development Plan, subject to modification meets this Basic Conditions on EU obligations.

4.11.2 Sustainable development

The Basic Conditions Statement sets out how the plan addresses achieving sustainable development. I am satisfied that the policies within the Oldbury NDP will contribute to the achieving sustainable development.

I am satisfied having regard to this document and other relevant documents, policies and legislation that the Oldbury Neighbourhood Development Plan does, subject to the recommended modifications, meet the Basic Conditions in this regard.

4.11.3 European Convention of Human Rights and to comply with the Human Rights Act 1998.

The Neighbourhood Development Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.

The Basic Conditions Statement refers to how the development of the plan and its policies accord with EU Human Rights obligations.

I am satisfied with this conclusion.

4.11.4 Excluded development

I am satisfied that the Oldbury Neighbourhood Development Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.

4.11.5 Development and use of land

I am satisfied that the Oldbury Neighbourhood Development Plan covers development and land use matters.

4.12.1 Oldbury Neighbourhood Development Plan Policies

4.12.2 General comments

Planning Guidance on preparing neighbourhood plans and policies is clear, it states:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”

In order to provide clarity and to ensure that the policies in the Oldbury Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where:

- Policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.
- A policy has not been drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications.

The details of these modifications are set out within my comments on the related policies. My comments on policies are in blue with the modified policies in red.

During the course of my examination the NPPF was updated and the relevant NPPF is now the NPPF July 2021(updated). The update of the NPPF has resulted in the change to a number of paragraph references and for clarity the plan as a whole should reflect the new paragraph numbering.

4.12.3. The Neighbourhood Plan Vision, Strategic Aims and Policies

4.12.4 VISION

The vision for the Oldbury Parish is:

“a uniquely characterful and caring place to live and work”

4.12.5 The Objectives of the Oldbury NDP.

Housing

H1 To enable the provision of the number and types of new housing that best promote a balanced, sustainable and vibrant village.

H2 To allocate sites for new housing that meet the community’s sustainability objectives. H3 To provide specialist housing as required, including for a growing elderly population.

Environment

E1 To integrate new development into Oldbury such that the heritage, character and setting of today’s parish is maintained and enhanced.

E2 To minimise the impact of new development on the surrounding countryside, environment and ecosystems, and create opportunities to enhance biodiversity.

E3 To minimise the risk of flooding and promote good flood risk management. 3.3
Work and Travel

T1 To lessen current problems with congestion, parking and road safety and ensure that they are not exacerbated.

EC1 To enhance the prospects for local employment/homeworking to reflect changing work patterns and reduce commuting.

Community

C1 To ensure that the whole community benefits from housing and other development in the Parish.

C2 To strengthen and maintain the community and ensure families with strong connections to the Parish are able to continue to live in it should they desire to do so.

C3 To ensure the effectiveness and sustainability of local community services into the future.

COMMENT

I am satisfied that the Oldbury NDP vision and objectives were developed from the consultation process and that the policies within the plan reflect them.

4.13 Oldbury Neighbourhood Development Policies

Policy 1: Sites for new housing

A Settlement Boundary was defined for Oldbury village in the South Gloucestershire Core Strategy Policy CS5. The boundary has been maintained in this plan (Refer to page 6).

Sites shown in red on the Proposals Map/Figure 1 are allocated for residential development as exception sites where evidenced local need supports development and limited provision of sites for self-build or custom build homes. Policies 4 and 5 set out development guidelines based on local need evidenced in the 2018 Housing Needs Assessment (HNA) and the requirements of the Oldbury Village Character Assessment and other policy in the Development Plan.

COMMENT

A new map showing the settlement boundary in greater detail should be linked to this policy. In addition, the proposed site allocations should be shown in greater detail on individual maps linked to the policy. The policy refers to the allocation of “exception sites” but these should be more properly referred to as Rural Exception sites. For clarity the policy should be modified as follows:

Policy 1: Sites for new housing

A Settlement Boundary was defined for Oldbury village in the South

Gloucestershire Core Strategy Policy CS5. The boundary has been maintained in this plan (Refer to page 6).

Sites shown in red on the Proposals Map/Figure 1 are allocated for residential development as rural exception sites where evidenced local need supports development and limited provision of sites for self-build or custom build homes in accordance with national policy and Policy CS5 of the South Gloucestershire Local plan.

Policies 4 and 5 set out development guidelines based on local need evidenced in the 2018 Housing Needs Assessment (HNA) and the requirements of the Oldbury Village Character Assessment and other policies in the Development Plan.

Policy 2: Housing mix for Oldbury

In order that the range of dwellings available in Oldbury village becomes more varied and accessible to smaller households and those on more limited incomes, new affordable housing in Oldbury will be expected to have no more than three bedrooms or rooms that could reasonably be used as bedrooms. If for viability reasons other development proposals are considered necessary or market housing required, then this will need to be justified by a viability assessment made available on a non-confidential basis to the Parish Council and the Local Planning Authority. The provision of smaller homes suitable for the elderly will also be considered. Site Specific Policies 4 and 5 have more detail on requirements for each site.

COMMENT

The mix of affordable housing provided should be based on local housing need. In addition, the decision on the confidentiality or otherwise of any submitted viability report is not within the remit of neighbourhood plan policy. For clarity and to meet the Basic Conditions the policy should be modified as follows:

Policy 2: Housing mix for Oldbury

In order that the range of dwellings available in Oldbury village becomes more

varied and accessible to smaller households and those on more limited incomes, new affordable housing in Oldbury will be expected to have no more than three bedrooms or rooms that could reasonably be used as bedrooms unless local housing need demonstrates a need for larger homes . If for viability reasons other development proposals are considered necessary or market housing required, then this will need to be justified by a viability assessment. The provision of smaller homes suitable for the elderly will also be considered. Site Specific Policies 4 and 5 have more detail on requirements for each site.

Policy 3: Affordable housing as defined in the NPPF shall be offered first to people in recognised housing need who meet the following criteria:

- has been resident within the Parish of Oldbury for a continuous period of three years within the preceding five years or six months in the preceding twelve months other than not of his own choice (not including serving with regular armed forces of the Crown) or
- is permanently employed within the Parish of Oldbury or is moving to the Parish to take up an offer of permanent employment or
- has a close family member (e.g. parent or adult child or sibling) who is living and has lived in the Parish of Oldbury for a continuous period of five years immediately preceding the date of advertising the Affordable Dwelling or
- Because of special circumstances

Note - If after 3 months there are no local candidates for the property then it shall be offered to people in housing need in adjacent parishes. Should there still be no take up, the offer will be extended to people in the wider South Gloucestershire Council Area.

COMMENT

I have no comment on this policy.

Policy 4: Development on Westmarsh Lane (Site 9)

It is expected that up to 8 dwellings can be accommodated on this site. Of these up to two can be self- build/custom build (Gross Floor Area circa 115m² per dwelling), the remainder will provide smaller (Gross Floor Area circa 90m² per dwelling) discounted market sales housing or starter homes for younger families or accommodation for older residents downsizing. Design should enable accommodation to be adapted to lifetime needs and meet Building Regs part M (2) standards as a minimum. This provides information about the ease of access to, and use of, buildings, including facilities for disabled visitors or occupants, and the ability to move through a building easily including to toilets and bathrooms.

Using the Village Character Assessment to inform and guide their design, all development should integrate into the character of the village in terms of siting, form, scale, height, massing. Detailing, colour and materials must respect and enhance the character, distinctiveness and amenity of both the site and its context.

A Landscape Visual Impact Assessment and Heritage Statement for the proposed development will be required to ensure the setting of heritage assets is respected and the character of the village is preserved. A tree and hedgerow screening belt is to be provided adjacent to the lane. Access may be taken directly from the lane, but in order that the planting on the lane presents the impression of a 'leafy lane, a shared drive solution, to serve three dwellings as a maximum, may also be needed. Safe vehicular access to and from the site will be required, allowing for the leafy lane character to also be preserved. A design brief will be required to demonstrate how the development will respond to boundary treatment influenced by the Village Character Assessment.

Existing mature trees on the site and its boundary are to be retained where possible and protected during development. Soft landscaping to be incorporated into the site development interspersed with the new homes to reflect local character. It will be necessary to demonstrate that biodiversity and wildlife as a whole have been considered and a net gain improvement to biodiversity achieved as encouraged by national planning policy to protect and enhance the natural environment.

A Site Specific Flood Risk Assessment (FRA) will be required for any new development that is within the floodplain. The FRA would be required to demonstrate

the proposal is not at risk of flooding, and that there is no increase in the risk for any third parties. This would be for the lifetime of development and include an allowance for climate change. The FRA should include details of finished floor levels, flood mitigation, flood resilience construction, safe refuge, flood warning and evacuation. Ecological assessments of sites with evidence of protected species will require an Environmental Report and Survey and an Archaeological survey will be required in areas of interest affected by any development proposal. (See policy 9)

COMMENT

Planning policy cannot require compliance with Building Regulations as these come under a separate regulatory regime.

The importance of managing flood risk within the parish has been identified as a priority and it is acknowledged that this site does lie within flood risk areas 2 and 3. The NPPF 2021 (as updated) sets out the national policy approach to managing flood risk:

“159. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

160. Strategic policies should be informed by a strategic flood risk assessment and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.

161. All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:

a) applying the sequential test and then, if necessary, the exception test as set out below;

162. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

163. If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.

164. The application of the exception test should be informed by a strategic or site- specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:

a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

165. Both elements of the exception test should be satisfied for development to be allocated or permitted.

166. Where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the

sequential test again. However, the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account.

167. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;

c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”

With regard to flood risk South Gloucestershire Council have made the following comments:

“The Neighbourhood Planning Group has been proactive in assessing the likely impacts of flood risk on several sites identified for potential allocation. This included a Site Assessment Report and Strategic Flood Risk Assessment for Oldbury. On top of this the group has been in contact with the Environment Agency who has provided comments on the proposed approach to ensure that any future development is located in the appropriate place and with the

necessary policy to ensure each site allocated will be supported by further Flood Risk Assessments and that the recommendations of these are met in full at the planning application stage.

The plan has clearly outlined the stages of assessment and supporting evidence produced to demonstrate that the sequential and exceptions tests have been met and passed for the sites they propose to take forward for allocation. It should be made clear that this is in the interest of delivering a locally identified need that can in effect only be achieved in Oldbury village. Therefore, although alternative sites outside of the neighbourhood plan area may be available, this would fail to meet the key objective of the Plan which is to specifically address the housing need that has been directly identified as arising for the Village.

The proposed allocations will be subject to further assessment at the application stage. As recommended by the Environment Agency each site will be expected to provide a further flood risk assessment which should demonstrate how any proposal is protected from flooding and that there is no increase in risk to any third parties over the lifetime of the development. The assessments should also consider and include finished floor levels, flood mitigation, flood resilience construction, safe refuges, flood warning and evacuation. This has been included within the individual allocation policies (Policy 4 and 5), as well as Policy 9: Flood Risk.”

In addition, the concerns raised by the Environment Agency and Natural England during the consultation on the SEA screening were addressed by making appropriate changes to the draft plan. (see my comments on the on the SEA screening at 4.11). Natural England required the allocations policies and supporting text to be modified remove any reference to the WEJSP and supporting documents (Including the HRA), as they have been withdrawn and include reference to the need contribute to the strategic mitigation measures outlined in the Habitats Regulations Assessment prepared in support of the emerging development plan for South Gloucestershire, should it be concluded that the developments are of a scale as to meet the threshold. NE also required changes to the supporting text of the allocations policies to make clear that a

supporting HRA will need to set out any requirements for contributions to strategic mitigation measures for the cumulative effects of development on European protected sites within South Gloucestershire. Detailed information about the threshold for requiring contribution to the strategic mitigation measures will be developed through the process of plan preparation.

This policy does not make it clear that the site, lying outside the settlement boundary is being allocated as a Rural Exception site. The NPPF 2021 (as updated) defines Rural Exception sites as follows:

“Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.”

The expectation is that rural exception sites will provide 100% affordable units unless there are viability issues which result in a % of open market development to provide cross subsidy for the affordable units. As the site is a rural exception site the housing provided should meet identified local housing need and the size of any units will need to respond to that need. I have received representation raising concern that the restriction on floor areas and type of dwellings set out in the policy are not appropriate and in conflict with national policy. I believe these concerns arise, in part from a confusion over the wording of the current policy. Affordable housing is defined in the NPPF 2021 (as updated) as:

“housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

a) Affordable housing for rent

b) Starter homes

c) Discounted market sales housing

d) Other affordable routes to home ownership.”

The affordable housing element of this site must come within one of the definitions above.

The Westmarsh Lane site lies within the designated Green Belt. It has been made clear by South Gloucestershire Council that the allocation has been the result of close working between the Neighbourhood Plan Group, Local Planning Authority and other stakeholders to find the most appropriate response to meet the local needs of the community. The following points have been put forward to outline why, in this circumstance, a small amount of development in the Green Belt is considered appropriate:

“• There is an identified local need for new dwellings as set out by the Housing Needs Assessment and that the only practical way to meet that need is to identify additional sites at Oldbury Village.

• Alternative sites are heavily constrained due to Flood Risk or impact on heritage assets (Oldbury Hillfort Scheduled Ancient Monument). The sequential approach is also highlighted in CS5 point 7. The assessment for Site 9 Westmarsh Lane shows the site is unaffected by Flood Zone 3 and that data from the Environment Agency indicates a very low risk. The development of a small number of homes to meet an identified local need will help to ensure the long term viability and vitality of community, services and facilities and village of Oldbury.”

Paragraph 4.1.15 page 19 of the plan does not make clear that the site is a Rural Exception site for affordable housing and for clarity should be modified as follows:

“The site on Westmarsh Lane is considered suitable for some affordable custom or self-build residential development of a reasonable scale, and smaller

affordable housing in sympathy with the local character. The design of this accommodation should provide ease of access to and inside the building to be flexible to the lifetime needs of those with disabilities and limited mobility. Policy 4 sets out a brief for the development of this site. The proposed area of the site provides an average density equivalent to 33 dwelling per hectare which is consistent with the average adjacent property."

The issues surrounding the allocation of this site are complex however I am satisfied that they have been addressed thoroughly and the allocation of the site does meet the Basic Conditions, subject to the following modification:

Policy 4: Development on Westmarsh Lane (Site 9)

Westmarsh Lane (site 9) is allocated as a Rural Exception site for up to 8 dwellings where the expectation is that the site will provide 100% affordable units unless there are viability issues which result in a % of open market development to provide cross subsidy for the affordable units. Development will be supported where:

- i. The proposals include up to two self- build/custom build dwellings
- ii. The dwellings are 2 or 3 bedroomed unless larger units are needed to meet a specific need. Starter homes for younger families or accommodation for older residents downsizing is particularly encouraged.
- iii. The affordable dwellings fall within the definition of affordable housing set out in the NPPF 2021 (as updated) or any subsequent revision.
- iv. The design of the dwellings can be adapted to lifetime needs.
- v. The Village Character Assessment has been used to inform and guide the design, to ensure that all development is integrated into the character of the village in terms of siting, form, scale, height, massing. Detailing, colour and materials must respect and enhance the character, distinctiveness and amenity of both the site and its context.

vi. Proposals are accompanied by a Landscape Visual Impact Assessment and appropriate Heritage Statement to ensure the setting of any heritage assets is respected and the character of the village is conserved.

vii. Proposals are accompanied by a comprehensive landscaping scheme which retains existing trees on the site and its boundary where possible and a tree and hedgerow screening belt is provided adjacent to the lane. Access may be taken directly from the lane, but in order that the planting on the lane presents the impression of a 'leafy lane, a shared drive solution, to serve three dwellings as a maximum, may also be considered. Soft landscaping should be designed to reflect local character using species appropriate to the location. The landscaping scheme should include measures for the protection of retained trees during the course of construction.

viii. It is demonstrated that the proposals will not worsen flood risk on or off site, and that any surface water runoff generated by the development can be dealt with in a way that is acceptable in visual and environmental terms and complies with guidance in the Village Character Assessment and to the satisfaction of the Lead Local Flood Authority. A site-specific Flood Risk Assessment (FRA) is provided in accordance with national policy demonstrates that the proposal is protected from flooding and that there is no increase in risk for any third parties over the lifetime of the development (include an allowance for climate change). The FRA should include details of how safe access and egress will be achieved, finished floor levels, flood mitigation, flood resilience construction, safe refuges, flood warning and evacuation.

ix. Access is taken directly from the lane for each dwelling, or at a maximum a shared drive to serve three dwellings to ensure safe vehicular access to and from the site that protects the leafy character.

x. It is demonstrated that biodiversity and wildlife as a whole have been considered and a net gain improvement to biodiversity achieved as encouraged by national planning policy to protect and enhance the natural environment.

This site will be required to contribute to the strategic mitigation measures

outlined in the Habitats Regulations Assessment prepared in support the Development Plan for South Gloucestershire, should it be concluded that the development is of a scale to meet the threshold.

Policy 5: Development on Westend Lane North and South (Site 13)

It is expected around 10 dwellings can be accommodated on this site in total, distributed between the four separate plots on a proportionate basis. Of these up to three can be self- build/custom build (Gross Floor Area circa 115m² per dwelling), no more than one per plot, or alternatively a larger home if required for viability reasons may be considered on each plot. Dwellings will generally be smaller (Gross Floor Area circa 100 m² per dwelling) and discounted market sales housing or starter homes for younger families or accommodation for older residents downsizing. Design should enable accommodation to be adapted to lifetime needs and meet Building Regs part M (2) standards as a minimum.

Using the Village Character Assessment to inform and guide their design all development should integrate into the character of the village in terms of siting, form, scale, height, massing, detailing, colour and materials must respect and enhance the character, distinctiveness and amenity of both the site and its context.

A Landscape Visual Impact Assessment and Heritage Statement will be required to ensure the setting of heritage assets and the village character is respected.

A design brief will be required to demonstrate how the development will respond to boundary treatment influenced by the Village Character Assessment. Existing mature trees on the site and its boundary are to be retained where possible and protected during development. It will be necessary to demonstrate that biodiversity and wildlife as a whole have been considered and a net gain improvement to biodiversity achieved as encouraged by national planning policy to protect and enhance the natural environment.

A tree and hedgerow screening belt is to be retained/enhanced in the lane, and access is to be taken directly from the lane for each dwelling, or at a maximum a shared drive to serve three dwellings to ensure safe vehicular access to and from the site.

A Site Specific Flood Risk Assessment (FRA) will be required for any new development that is within the floodplain. The FRA would be required to demonstrate the proposal is not at risk of flooding, and that there is no increase in the risk for any third parties. This would be for the lifetime of development and include an allowance for climate change. The FRA should include details of finished floor levels, flood mitigation, flood resilience construction, safe refuge, flood warning and evacuation. Ecological assessments of sites with evidence of protected species will require an Environmental report and survey and an Archaeological survey will be required in areas of interest affected by any development proposal. (See policy 9)

COMMENT

This policy does not make it clear that the site, lying outside the settlement boundary is being allocated as a Rural Exception site. The NPPF 2021 (as updated) defines Rural Exception sites as follows:

“Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.”

The expectation is that rural exception sites will provide 100% affordable units unless there are viability issues which result in a % of open market development to provide cross subsidy for the affordable units. As the site is a rural exception site the housing provided should meet identified local housing need and the size of any units will need to respond to that need. I have received representation raising concern that the restriction on floor areas and type of dwellings set out in the policy are not appropriate and in conflict with national policy. I believe these concerns arise, in part from a confusion over the wording of the current policy. Affordable housing is defined in the NPPF 2021 (as updated) as:

“housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

a) Affordable housing for rent

b) Starter homes

c) Discounted market sales housing

d) Other affordable routes to home ownership.”

The affordable housing element of this site must come within one of the definitions above.

The importance of managing flood risk within the parish has been identified as a priority and it is acknowledged that this site does lie within a flood risk area. The NPPF 2021 (as updated) sets out the national policy approach to managing flood risk:

“159. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

160. Strategic policies should be informed by a strategic flood risk assessment and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.

161. All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to

people and property. They should do this, and manage any residual risk, by:

a) applying the sequential test and then, if necessary, the exception test as set out below;

162. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

163. If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.

164. The application of the exception test should be informed by a strategic or site- specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:

a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

165. Both elements of the exception test should be satisfied for development to be allocated or permitted.

166. Where planning applications come forward on sites allocated in the

development plan through the sequential test, applicants need not apply the sequential test again. However, the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account.

167. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;

c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”

The Westend Lane site allocation is comprised of four separate plots all of which lie within Flood Zone 1 but with access/egress passing through Flood Zone 3. This allocation is supported by a Strategic Flood Risk Assessment. With regard to flood risk South Gloucestershire Council have made the following comments:

“The Neighbourhood Planning Group has been proactive in assessing the likely impacts of flood risk on several sites identified for potential allocation. This included a Site Assessment Report and Strategic Flood Risk Assessment for

Oldbury. On top of this the group has been in contact with the Environment Agency who has provided comments on the proposed approach to ensure that any future development is located in the appropriate place and with the necessary policy to ensure each site allocated will be supported by further Flood Risk Assessments and that the recommendations of these are met in full at the planning application stage.

The plan has clearly outlined the stages of assessment and supporting evidence produced to demonstrate that the sequential and exceptions tests have been met and passed for the sites they propose to take forward for allocation. It should be made clear that this is in the interest of delivering a locally identified need that can in effect only be achieved in Oldbury village. Therefore, although alternative sites outside of the neighbourhood plan area may be available, this would fail to meet the key objective of the Plan which is to specifically address the housing need that has been directly identified as arising for the Village.

The proposed allocations will be subject to further assessment at the application stage. As recommended by the Environment Agency each site will be expected to provide a further flood risk assessment which should demonstrate how any proposal is protected from flooding and that there is no increase in risk to any third parties over the lifetime of the development. The assessments should also consider and include finished floor levels, flood mitigation, flood resilience construction, safe refuges, flood warning and evacuation. This has been included within the individual allocation policies (Policy 4 and 5), as well as Policy 9: Flood Risk.”

In addition, the concerns raised by the Environment Agency and Natural England during the consultation on the SEA screening were addressed by making appropriate changes to the draft plan. (see my comments on the on the SEA screening at 4.11) Natural England required the allocations policies and supporting text to be modified remove any reference to the WEJSP and supporting documents (Including the HRA), as they have been withdrawn and include reference to the need contribute to the strategic mitigation measures outlined in the Habitats Regulations Assessment prepared in support of the

emerging development plan for South Gloucestershire, should it be concluded that the developments are of a scale as to meet the threshold. NE also required changes to the supporting text of the allocations policies to make clear that a supporting HRA will need to set out any requirements for contributions to strategic mitigation measures for the cumulative effects of development on European protected sites within South Gloucestershire. Detailed information about the threshold for requiring contribution to the strategic mitigation measures will be developed through the process of plan preparation.

Paragraph 4.1.17 page 20 of the plan does not make clear that the site is a Rural Exception site for affordable housing and for clarity should be modified as follows:

"The plots at the West End Lane Site are considered suitable for some affordable custom or self-build residential development of a reasonable scale, and smaller affordable housing in sympathy with the local character, noting the existing dwelling density at this location. Policy 5 sets out a brief for the development of these sites. In keeping with the character of the area a marginally larger Gross floor area is permitted. The combined area of the 4 plots provides an average density equivalent to 27 dwellings per hectare which is a significantly higher density than adjacent existing properties."

The issues surrounding the allocation of this site are complex however I am satisfied that they have been addressed thoroughly and the allocation of the site does meet the Basic Conditions, subject to the following modification:

Policy 5: Development on Westend Lane North and South (Site 13) as a Rural Exception Site.

Westend Lane North and South (located on the map on page 22) is allocated as a Rural Exception site for approximately 10 dwellings distributed between the four separate plots on a proportionate basis. The expectation is that the sites will provide 100% affordable units unless there are viability issues which result in a % of open market development to provide cross subsidy for the affordable units. Development of the site for affordable housing to meet locally identified

need will be supported where:

i. Up to three units are for affordable self- build/custom build no more than one per plot.

ii. The dwellings are 2 or 3 bedroomed unless larger units are needed to meet a specific need.

iii. The affordable dwellings fall within the definition of affordable housing set out in the NPPF 2021 (as updated) or any subsequent revision.

iv. The design can be adapted to lifetime needs.

v. The Village Character Assessment has been used to inform and guide the design, to ensure that all development is integrated into the character of the village in terms of siting, form, scale, height, massing. Detailing, colour and materials must respect and enhance the character, distinctiveness and amenity of both the site and its context.

vi. Proposals are accompanied by a Landscape Visual Impact Assessment and appropriate Heritage Statement to ensure the setting of any heritage assets is respected and the character of the village is conserved.

vii. As part of a comprehensive landscaping scheme which retains existing trees on the site and its boundary where possible and enhances the tree and hedgerow adjacent to the lane. Soft landscaping should be designed to reflect local character using species appropriate to the location. The landscaping scheme should include measures for the protection of retained trees during the course of construction.

viii. It is demonstrated that the proposals will not worsen flood risk on or off site, and that any surface water runoff generated by the development can be dealt with in a way that is acceptable in visual and environmental terms and complies with guidance in the Village Character Assessment and to the satisfaction of the Lead Local Flood Authority A site-specific Flood Risk Assessment (FRA) is provided in accordance with national policy demonstrates

that the proposal is protected from flooding and that there is no increase in risk for any third parties over the lifetime of the development (include an allowance for climate change). The FRA should include details of how safe access and egress will be achieved, finished floor levels, flood mitigation, flood resilience construction, safe refuges, flood warning and evacuation.

ix. Access is taken directly from the lane for each dwelling, or at a maximum a shared drive to serve three dwellings to ensure safe vehicular access to and from the site.

x. It is demonstrated that biodiversity and wildlife as a whole have been considered and a net gain improvement to biodiversity achieved as encouraged by national planning policy to protect and enhance the natural environment.

This site will be required to contribute to the strategic mitigation measures outlined in the Habitats Regulations Assessment prepared in support the Development Plan for South Gloucestershire, should it be concluded that the development is of a scale to meet the threshold.

Policy 6 Preserving Village Character and Design Guidance

All development in Oldbury Village is to comply with the design guidelines set out in the Oldbury Village Character Assessment¹² which are as follows: -

G1 Developments should be low density and primarily of a linear nature to match existing rural village areas. The density of new development should ideally not exceed 25 dwellings to the hectare unless the dwellings are small and include affordable housing, in which case a density of 30 dwellings to the hectare is acceptable.

G2 Developments in the Leafy Lanes areas should maintain wherever possible existing trees and hedgerows and continue to use extensive soft landscaping and tree planting to soften the lines of buildings and their setting.

G3 Developments in the village needs to be of a similar scale to existing buildings and not detract from or obscure important views and landmark buildings in the village.

G4 Dwellings should have garden space and off-road parking provided within their curtilage.

G5 Boundary treatments in the Vintage Village areas should be predominantly stone walls, and existing stone walls and other traditional features should be retained in all development. Hedgerow boundaries and other soft landscaping will normally be more appropriate in the Leafy Lane areas.

G6 Development needs to present a varied appearance, while using traditional materials of stone, brick and some render as the main palette. Development can mix single and two storey dwellings to achieve the varied and informal appearance and satisfy the wishes of the local inhabitants (in accordance with Flood risk management requirements.)

G7 These guidelines are not intended to prevent innovative good modern design proportionate to the village and its context.

G8 Where external lighting is considered essential for safety or other reasons, it should use low powered LED fittings. Shade lights so as to avoid light pollution and spill and to ensure no adverse impact on wildlife.

COMMENT

I have no comment on this policy.

Policy 7: Local Ecological and Wildlife Sites

Designated Sites of Nature Conservation Interest listed below are to be protected in any development proposal and the wildlife value maintained. If this is not possible, and the benefits of the development are assessed to outweigh the harm to the environmental asset, then mitigation is to be agreed as part of any planning permission such that the overall biodiversity richness of Oldbury is not adversely affected. Sites of Local Ecological value are shown at Appendix 2 as follows: -

1. Cowhill Wood
2. Track by Naite Rhine
3. Naite Rhine Estuary

4. Fields N of Power Station 5. Land to E of Great Leaze Farm 6. Land S of Stoneygate

Mature trees and hedgerows are to be protected during construction, and development proposals should retain these key visual and environmental assets.

Sites allocated for development will be required to contribute to the strategic mitigation measures outlined in the Habitats Regulations Assessment prepared in support of the West of England Joint Spatial Plan, should it be concluded that the developments are of a scale as to meet the threshold.

COMMENT

As the West of England Joint Spatial Plan has been withdrawn. The final paragraph of the policy should be modified as follows:

Sites allocated for development may require screening under the provisions of the Habitats Regulations Assessment and will be required to contribute to any strategic mitigation measures required under any Habitats Regulations Assessment prepared in support of the Development Plan, should it be concluded that the developments are of a scale as to meet the threshold.

Policy 8 Local Heritage and Archaeological Assets

The buildings and features listed at Appendix 3 are local heritage assets. Any development proposal should respect them, in a manner appropriate to their significance and their setting so that the historic character of the village is maintained.

Prior to development commencing on land previously undeveloped, an archaeological survey proportionate to the development proposal should be undertaken and a watching brief undertaken during works on site.

COMMENT

The non-designated heritage assets identified in Appendix 3 should be included in the policy. In addition, for consistency with national policy and to provide clarity the policy title should be modified as follows:

Policy 8 Local Non-Designated Heritage and Archaeological Assets

Policy 9: Flood Risk

Any development proposal will be required to demonstrate that it will not worsen flood risk on or off site, and that any surface water runoff generated by the development can be dealt with in a way that is acceptable in visual and environmental terms and complies with guidance in the Village Character Assessment and to the satisfaction of the Lead Local Flood Authority .

A Site-Specific Flood Risk Assessment (FRA) will be required for any new development that is within the flood plain. The FRA will be required to demonstrate the proposal is protected from flooding and that there is no increase in risk for any third parties. This would be for the lifetime of development and include an allowance for climate change. The FRA should include details of finished floor levels, flood mitigation, flood resilience construction, safe refuges, flood warning and evacuation

Developers will need to contact Wessex Water at the earliest opportunity to establish if specialised surveys are required and to be advised of design and installation requirements

COMMENT

Flood Risk has been identified as an important issue in the development of the neighbourhood plan. The plan is supported by a strategic Flood Risk Assessment and the neighbourhood plan group has liaised with the Environment Agency. The Environment Agency advise that Policy 9 should include reference to safe access and egress. In addition, national policy sets out the requirement for an FRA and this is not confined to sites within a flood plain. For clarity the policy should be modified as follows:

Policy 9: Flood Risk

Any development proposal will be required to demonstrate that it will not worsen flood risk on or off site, and that any surface water runoff generated by the development can be dealt with in a way that is acceptable in visual and

environmental terms and complies with guidance in the Village Character Assessment and to the satisfaction of the Lead Local Flood Authority .

Development proposals must provide, where required a site specific Flood Risk Assessment (FRA) in accordance with national policy. The FRA will be required to demonstrate the proposal is protected from flooding and that there is no increase in risk for any third parties over the lifetime of the development and include an allowance for climate change. The FRA should include details of how safe access and egress will be achieved, finished floor levels, flood mitigation, flood resilience construction, safe refuges, flood warning and evacuation.

Developers will need to contact Wessex Water at the earliest opportunity to establish if specialised surveys are required and to be advised of design and installation requirements

Policy 10: Traffic and Travel

The provision of speed reduction and traffic calming measures on rural residential roads will be encouraged as long as they are compatible with the design guidelines in the Oldbury Village Character Assessment. New residential development of 2 bedrooms or less will be required to provide at least two off-street parking places, dwellings with 3 or more bedrooms will be required to provide a minimum of 3 off-street parking places and must not increase on street parking. The additional provision of off-street visitor parking on new developments is required to avoid parking stress and ensure that traffic movement is not obstructed. This will be assessed at the development application stage with input from the Parish Council. It will not normally be acceptable to provide visitor parking in existing lanes adjacent to new development. (See SGC Residential Parking Standards SPD Dec 2013 for further information)

COMMENT

The parking requirements set out in this policy exceed those set out in the South Gloucestershire Council Residential Parking Standards SPD (adopted 2013) but I have not been provided with adequate evidence to support these increased standards. To meet the Basic Conditions, the policy should be modified as

follows:

Policy 10: Traffic and Travel

i. The provision of speed reduction and traffic calming measures on rural residential roads will be encouraged as long as they are compatible with the design guidelines in the Oldbury Village Character Assessment.

ii. New residential development should as a minimum provide parking, including visitor parking in accordance with SGC Residential Parking Standards SPD (Dec 2013) .However, dwellings of 2 bedrooms or less should have at least two off-street parking places, dwellings with 3 or more bedrooms should have of 3 off-street parking places wherever possible and should not increase on street parking. It will not normally be acceptable to provide visitor parking in existing lanes adjacent to new development.

Policy 11: Community Facilities

In order to promote a thriving village, there will be a strong presumption against the redevelopment and change of use of community facilities for non-community uses. Identified Community Facilities are:

The Community Shop the Anchor Inn

St Arilda's Parish Church the Playing Fields

West Marsh Pavilion (Playing Field)

The Memorial Hall

St Mary's Church (Shepperdine)

Oldbury C of E Primary School.

Development proposals to sustain or extend the viable use of existing community facilities and the development of new facilities will normally be supported if they comply with other policies in this Neighbourhood Plan.

Development proposals that will result in the loss, or significant reduction in the scale and value, of a community facility will be resisted, unless alternative facilities of equal or better accessibility, size and suitability are provided or it can be clearly demonstrated that the operation of the asset, or the ongoing delivery of the community value of the asset, is no longer economically viable. Non-viability will normally be demonstrated after the site has been marketed at a reasonable price for at least six months for its current community use or any other suitable employment or service trade uses and no interest in acquisition has been expressed.

COMMENT

I have no comment on this policy.

Policy 12: Home Working and Small Business Development

Proposals for start-up businesses from home, live-work units and other small business developments will be supported where the development complies with other policies in the development plan and the following can be demonstrated:

- Existing buildings are reused where possible;
- Employment opportunities are provided, including self-employment, and the development maintains or increases the sustainability of the Parish;
- The proposed design including any signage is in keeping with the scale and character of the village and rural location;
- The proposed use will not give rise to harmful impacts on local residential amenities or other neighbouring uses and work units remain for that purpose on new developments;
- The proposed development ensures that the expected nature and volume of traffic generated by the development and need for parking would not have a detrimental impact on the residential amenity of Oldbury village and other residential property, buildings and settlements.

COMMENT

I have no comment on this policy.

Policy 13: New Nuclear Build Community Benefit

Any proposed development on the Oldbury Nuclear Power Station Site is expected to continue to be the subject of pre-application consultation with the local community and Oldbury Parish Council. The community have identified the following community benefits that are likely to be necessary to avoid adverse impact on Oldbury, although other issues and mitigation may also arise during further negotiations:

- Flood protection for the site and surrounding area;
- Provision of new strategic transport infrastructure and associated management and routing of construction and operational traffic;
- Assistance with community facilities in the parish, improvement to local sustainable transport infrastructure and enhancement of the local environment to promote safe travel for pedestrians, cyclists, public transport users and local traffic;
- Conservation and enhancement of biodiversity within the parish wherever possible, and if not then adequate mitigation to be applied to any development; and
- Promotion of training and job opportunities locally to encourage local employment in the new power station and ancillary services.

COMMENT

It is important that the community have identified the community benefits that they need to achieve from any further development of the nuclear power station sited within the parish however the requirement to deliver planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) are strictly limited to dealing with the impacts that are generated by a particular planning application. As South Gloucestershire Council has a CIL regime in place most new/improved infrastructure will be funded by this mechanism. This does not, of course prevent the applicant and the community negotiating

directly to achieve wider community benefits. Any priorities identified by the community for the spending of the CIL element that will be paid to the parish council can be included within the Oldbury NP but not within the policy section. For clarity and to meet the Basic Conditions, the policy should be modified as follows:

Policy 13: New Nuclear Build Community Benefit

Due to the impact on the local community, any proposed development on the Oldbury Nuclear Power Station Site is expected to continue to be the subject of pre-application consultation with the local community and Oldbury Parish Council. Any new development proposals must include details of how the following issues will be addressed:

- Flood protection for the site and surrounding area;
- The provision of new strategic transport infrastructure and associated management and routing of construction and operational traffic;
- The impact on community facilities in the parish;
- Local sustainable transport infrastructure, promoting safe travel for pedestrians, cyclists, public transport users and local traffic;
- The conservation and enhancement of biodiversity within the parish including biodiversity net gain which at a minimum will achieve current government requirements.
- The promotion of training and job opportunities locally to encourage local employment in the new power station and ancillary services.

SECTION 5

Conclusion and Recommendations

1. I find that the Oldbury Neighbourhood Development Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012. (as amended)
2. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.
3. The Oldbury Neighbourhood Development Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Development Plans in place within the Neighbourhood Area.
4. The Strategic Environmental Assessment and Habitats Regulations Assessment meet the EU Obligation.
5. The policies and plans in the Oldbury Neighbourhood Development Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the South Gloucestershire Local Plan (Core Strategy, 2013 and the Policies, Sites and Places Plan, 2017).
6. I therefore consider that the Oldbury Neighbourhood Development Plan subject to the recommended modifications can proceed to Referendum.

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3rd December 2021

