

**PETERSFIELD NEIGHBOURHOOD PLAN  
2013 – 2028**

**Petersfield Neighbourhood Plan Examination**

**Report to the South Downs National  
Park Authority**

**by**

**Independent Examiner,  
Christopher Lockhart-Mummery QC**

**JULY 2015**

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## **INTRODUCTION**

### **Preliminary**

1. I was appointed in March 2015 as the Independent Examiner for the Petersfield Neighbourhood Plan (PNP). The Plan has been prepared by the Qualifying Body, Petersfield Town Council, with support from (principally) the local planning authority, the South Downs National Park Authority (SDNPA).
2. This Report provides the finding of the Examination, carried out between April and June 2015.
3. The PNP was sponsored by the Petersfield Town Council as Qualifying Body in accordance with the Neighbourhood Plan Regulations 2012. The area of the PNP

comprises the whole of the Parish of Petersfield, as designated by the SDNPA on 13<sup>th</sup> September 2012.

4. The PNP area is shown on Figure 1 of the PNP.
5. I was appointed by the SDNPA, with the consent of the Petersfield Town Council, to conduct an examination and provide this Report as an Independent Examiner. I am independent of the qualifying body and the local planning authority. I do not have any interest in any land that may be affected by the PNP, and I possess appropriate qualifications and experience.
6. As the Independent Examiner, I must make one of the following recommendations:
  - (a) that the PNP should proceed to Referendum, on the basis that it meets all legal requirements;
  - (b) that the PNP, as modified, should proceed to Referendum;
  - (c) that the PNP does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.
7. The main documents I have considered are:
  - The PNP
  - The Basic Conditions Statement 18 January 2015
  - The Consultation Statement 18 January 2015 with its appendices.
  - Forming the Plan 18 January 2015.
  - The Sustainability Report December 2014.
  - All the representations made.
  - The East Hampshire District Local Plan: Joint Core Strategy (JCS) 2014.
  - Relevant saved policies of the East Hampshire District Local Plan: Second Review March 2006.

## **Procedure**

8. On 23<sup>rd</sup> April 2015 I issued an Initial Note, dealing with some procedural matters and raising certain initial comments and concerns. Paragraph 3 referred, in the context of a potential hearing, to paragraph 9(2) of Schedule 4B of the Town and Country Planning Act 1990. It recorded that I had determined that a hearing was necessary to ensure adequate examination of a number of issues that had arisen, and also to ensure that certain of the representors had a fair chance to put their case, namely representors R9, R32/33, R34, R36, R37 and R38.
9. Arrangements were made for the hearing on 4<sup>th</sup> and 5<sup>th</sup> June 2015. The proceedings concluded on 4<sup>th</sup> June, with accompanied site views taking place on 5<sup>th</sup> June. (I had previously visited the area by myself on 26<sup>th</sup> May).
10. In response to the queries and comments raised in the Initial Note, I received in May 2015 a Response from the SDNPA and the QB. This Response was extremely helpful, and its contents are substantially reflected in this Report. The Report cross-refers to the Response, which is therefore an attached Annex. Many of the **Modifications** I recommend are set out in the Response, and not repeated in the body of the report.

## **Plan preparation**

11. The Consultation Statement fully describes the evolution of the PNP, and the substantial engagement at all stages with interested parties and the local community as a whole. A Steering Group was formed from representatives of the Town Council, East Hampshire District Council, SDNPA, Petersfield Society and local residents. A Project Group was then established to produce the PNP.
12. The Conclusion to the Consultation Statement states as follows:

“The Consultation Statement sets out how the Petersfield Neighbourhood Plan Steering Group undertook extensive public consultation and engagement activities both prior to the publication of

the draft Petersfield Neighbourhood Development Plan, and during the formal Draft Plan Stage Public Consultation process. The activities to engage and consult local residents, organisations and Consultation Bodies went above and beyond those required by the Regulations and represent good practice in neighbourhood planning”.

I agree with this assessment.

## **Basic Conditions and other statutory requirements**

### **Preliminary**

13. Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990 provides that, in examining a proposed Neighbourhood Plan, the Examiner is to consider the following:
  - “(a) whether the draft Neighbourhood [Plan] meets the Basic Conditions (see sub-paragraph (2)),
  - (b) whether the draft [Plan] complies with the provision made by or under sections 38A and 38B,
  - (d) whether the area for any Referendum should extend beyond the neighbourhood area to which the draft [Plan] relates, and
  - (e) such other matters as may be prescribed”.
  
14. Paragraph 8(2) of Schedule 4B provides that a Neighbourhood Development Plan meets the Basic Conditions if:
  - “(a) having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make [the Plan],
  - (d) the making of [the Plan] contributes to the achievement of sustainable development,
  - (e) the making of [the Plan] is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),
  - (f) the making of [the Plan] does not breach, and is otherwise compatible with, EU obligations, and
  - (g) prescribed conditions are met in relation to [the Plan] and prescribed matters have been complied with in connection with the proposal for [the Plan]”.

15. Only one further Basic Condition has been prescribed under paragraph 8(2)(g), as follows:

“The making of the Neighbourhood Development Plan is not likely to have a significant effect on a European site...or a European Off-Shore Marine site...(either alone or in combination with other plans or projects)”.

### **SEA**

16. With reference to Basic Condition (f), the principal relevant EU obligation is under the SEA Directive (2001/42/EC). That has been transposed into UK domestic law through the Environmental Assessment of Plans and Programmes Regulations 2004.
17. Merely because the preparation of a plan is optional, rather than compulsory, that does not avoid the need for an SEA to be prepared. An SEA is required as part of the process of preparing a Neighbourhood Plan, where such plan is likely to have significant effects on the environment. It was determined at an early stage in the evolution of the PNP that a plan proposing significant land use allocations in a National Park was likely to have significant effects on the environment.
18. The section of Planning Practice Guidance (PPG) on Strategic Environmental Assessment and Sustainability Appraisal contains guidance in relation to neighbourhood plans. Paragraph 027 advises that a strategic environmental assessment may be required, for example, where:
- a neighbourhood plan allocates sites for development
  - the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan
  - the neighbourhood plan may have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan.

Each of the above factors is relevant to the PNP.

Paragraph 038 contains advice as to how the SEA should approach the matter of “reasonable alternatives”. This was the principal criticism made of the adequacy of the SEA.

19. Sustainability Appraisal and SEA was undertaken in relation to the JCS. The assessment explored a range of options for the quantum of residential development appropriate for Petersfield. It dismissed figures of 1,532 dwellings (option 2) and 2,477 dwellings (option 7) as having significantly adverse landscape impacts. The report suggests that while there were some significant landscape impacts at a level of 865 dwellings (option 5), levels below such a figure might be acceptable.
20. At the pre-submission stage of the PNP, the two main “reasonable alternatives” that were assessed were development in accordance with the then PNP, and a “do nothing” option. After consultation, the do nothing option was removed and three main “reasonable alternatives” were assessed: option 1, 700 homes; option 2, 768 homes; option 3, 2,000 homes. This latter figure was derived as a midway point of assessed affordable housing requirements. A “long list” of options for new development was produced, and over 80 sites included. Each of these was assessed in relation to a range of environmental/policy constraints and designated features, as well as against the SA Framework of objectives and decision-making criteria.
21. The principal concerns raised in representations (especially R37) were to the effect that 700 was not a reasonable alternative since it did not comprise the “at least 700” called for by the JCS; 768 was the figure selected in the PNP itself; and 2,000 was never a feasible option.
22. Legal authorities such as R (Friends of the Earth) v. Welsh Ministers [2015] EWHC 776 (Admin) provide guidance on this topic. An appropriate test for a reasonable alternative is one which is viable as capable of meeting the objectives of the Plan.
23. I have referred above to the “long list”. The results of GIS testing (summarised at the beginning of Appendix D) were used to inform the initial High Level Assessment



against the SA Framework. The HLA results were presented in matrix format at Appendix F. An HLA was also undertaken for the Plan's policies, presented in Appendix H.

24. Whilst I can see some merit in the representations that suggested that a level of around 1,000 dwellings should have been specifically identified as a reasonable alternative, it seems to me that throughout the process taken as a whole, including in particular the "long list" assessments, reasonable alternatives were adequately considered. Bearing in mind the SA/SEA undertaken for the JCS, I conclude that the SEA for the PNP meets the legal requirements.

### **Habitats Assessment**

25. The PNP area is not in close proximity to any European designated nature site. It was therefore considered that a Habitat Regulation Assessment (HRA) under the EU Habitats Regulations was not required. Natural England reviewed this assessment and agreed. This statutory requirement is therefore met.

### **Other statutory requirements**

26. In addition to the above requirements, I am also required to consider whether the PNP complies with the provision made by or under sections 38A and 38B of the 2004 Act. A number of provisions have been made by or under those sections, as follows:

- in sections 38A and 38B themselves;
- in Schedule 4B to the 1990 Act (introduced by section 38A(3)); and
- in the 2012 Regulations (made under sections 38A(7) and 38B(4)).

In the remainder of this section I outline briefly what those provisions are, insofar as they relate to the contents of the PNP.

27. First, a Neighbourhood Development Plan is to be a plan that sets out policies for the development and use of land in the whole or part of the area in question. This is a fundamental provision, as a plan that contains only other types of policies may be a

worthwhile and commendable document, but it is not a “neighbourhood development plan” within the terms of the relevant legislation. The PNP contains a number of “aspirational” policies colour-coded (in pink) to be distinguished from the land use policies (shown blue). Paragraph 7 of my Initial Note raised concern at the intermingling of the two concepts, suggesting that the aspirational material be removed to a companion document or annex. This point was dealt with in the Response, and referred to below.

28. The PNP allocates a number of sites for different forms of development/use, in accordance with guidance in the PPG. Shortly after the close of the hearing, the Court of Appeal confirmed that it is lawful for a neighbourhood plan to make land use allocations: R (Larkfleet Homes Limited) v Rutland County Council [2015] EWCA Civ 597.
29. A Neighbourhood Development Plan:
  - Must specify the period for which it is to have effect – the Plan period of 2013-2028 is clearly stated.
  - May not include provisions relating to “excluded development” – the PNP does not include any such provision.
  - May not relate to more than one neighbourhood area – this is complied with.
30. The PNP must not breach any rights under the Human Rights Convention. I am satisfied that this requirement is met.
31. A local planning authority is under a duty under section 11 of the Countryside Act 1968 to ensure that in the exercise of any of its functions relating to land, it must have regard to the desirability of conserving the natural beauty and amenity of the countryside. That is especially relevant here, in the National Park.
32. There is also the duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving the character and appearance of any conservation area when carrying out

any function under the Planning Acts. I have borne this requirement especially in mind.

## **Policy**

33. In carrying out the examination of the PNP, and deciding whether to recommend that it should be submitted to a Referendum, I am required to have regard to national policies and advice contained in guidance issued by the Secretary of State (Basic Condition (a)).
34. The most significant national policies relevant to planning matters are set out in the National Planning Policy Framework (“the NPPF”). This was issued in March 2012.
35. Key paragraphs that refer to plan-making, including neighbourhood plans, are paragraphs 15, 16, 17 and 183. More generally, the NPPF sets out a number of policies relating to a wide range of issues, including in particular transport, housing, design, climate change, the natural environment, and the historic environment. I have had regard to these where appropriate in carrying out my examination.

## **Guidance**

36. PPG was issued in March 2014, and has been updated subsequently. I have borne particularly in mind the advice that a policy in a neighbourhood plan should be clear and unambiguous, concise, precise and supported by appropriate evidence.

## **Sustainable development**

37. In carrying out the examination of the PNP, I am required to consider whether the making of it would contribute to the achievement of sustainable development (Basic Condition (d)). Paragraph 7 of the NPPF states that there are three dimensions to sustainable development: economic, social and environmental.

## **Development Plan**

38. In carrying out the examination of the PNP, I am required to consider whether it is in general conformity with the strategic policies contained in the development plan for the area (Basic Condition (e)). The development plan comprises the JCS 2014 and certain saved policies of the former local plan.

## **THE PNP**

39. **Where modifications are recommended, they are highlighted in bold print, with any proposed new or substituted wording in italics. Many of the modifications are set out in the annexed Response.**
40. Before going further, I would wish to pay tribute to the highly professional nature of the PNP and the energy and dedication of all those who have contributed to it.

### **Section 1 - Introduction**

41. Page 3 sets out the format of the PNP, with Objectives in green, policies in blue, and aspirational policies in pink. I referred at paragraph 27 to my concern as to the aspirational policies. Paragraph 7 of the Response describes the importance of the non-land use matters as providing context. The QB requests that if the aspirational policies are to be moved to an appendix, they remain referenced in the introduction table to each chapter which sets out the chapter's objective and supporting policies. For example: on page 36 of the PNP the "pink" aspirational policies will remain in the objective table, but the full text of the aspirational policies from pages 43 and 44 would be removed from the chapter and placed in an appendix.

**I recommend that the PNP be modified by removal of the aspirational policies to an appendix, but with the qualification requested in paragraph 7.1 of the Response**

### **Section 2 – The Vision for Petersfield**

42. This section is commendably clear, and I need make no further comment.

### **Section 3 – Housing**

43. Policy CP10 of the JCS requires allocations to provide a minimum of 700 dwellings at Petersfield, identified as one of the most sustainable settlements in the JCS area. Sites are to be identified through, inter alia, neighbourhood plans, and settlement policy boundaries adjusted accordingly. The approach of the PNP, bearing in mind that 700 is expressed as a minimum, is to make an additional allowance of 10% (770), with the currently proposed allocations intended to achieve 768 net new dwellings.
44. I have borne in mind one of the central objectives of the NPPF, to boost significantly the supply of housing (paragraph 47).
45. Paragraph 47 relates, in particular, to the preparation of local plans. But having regard to Basic Conditions (a) and (e), this objective provides relevant guidance to the PNP. I have therefore sought to ensure that the PNP identifies five years' of deliverable (footnote 11) sites, and that housing allocations for the remainder of the plan period are developable having regard to footnote 12. The Response provided extremely useful elaboration on this aspect. Against an initial five year requirement of 245 dwellings, it contended that 329-400 dwellings would be deliverable in this period. In the second five year period, it contended that 213-284 dwellings are developable. In the third five year period it suggested that 151 dwellings are developable.
46. The intended housing provision of the PNP is set out in Housing Policy 1 (HP1), and Table 1. It is my assessment that there is little doubt as to the deliverability of sites H1, H3, H4, H5, H7, H8 and H12.
47. Site H2 (101 units) and site H11 (11 units) are intended for self or custom build only, in accordance with Policy HP7. This form of development is relatively novel and untested. Many cogent representations were made relating to the delivery of 112 dwellings by this means, and to the rigidity of the proposed occupational criteria. Section 11 of the Response provided substantial commentary on these concerns, and

reference should be made to this alongside this Report. It is contended that site H2 would be a viable site for the form of development proposed, the majority landowner supports the allocation, and the minority landowner (Hampshire County Council) has no objection in principle, whilst expressing concerns over deliverability. I deal with policy HP7 below, but my overall assessment is that there must be some doubt as to whether all the 112 units from this source would be delivered in the plan period.

48. Site H6 relates to the Town Centre Redevelopment Opportunities, comprising 62 units. Site H6-2 (site at corner of Hylton Road and Dragon Street) (4 units) is now proposed for deletion. Having considered the representations and seen the sites, I entertain doubts as to the delivery within the plan period of MU1 (Royal Mail sorting Office), MU2 (BT Exchange), and H6-1 (Infant School South Site). These sites total 36 units. Site H9 is the Hampshire County Council Depot off Paddock Way. This site is fully operational, with the County Council stating that it “could become available within the...period subject to Member approval and identification of a suitable alternative location for the existing use”. Whilst an allocation would doubtless provide an economic incentive to make the site available, there must be considerable doubt as to deliverability. Similar considerations relate to site H10 (existing community centre).
49. In conclusion on this aspect, my assessment is that there must be considerable uncertainty as to the delivery of 36 of the H6 sites, 42 units at H9 (Hampshire County Council Depot) and 10 units at H10 (i.e. some 88 units) and similar doubt as to a proportion of the self/custom build sites. It is not possible to be more precise than this, but as matters stand at this stage I conclude that there is a need to consider opportunities for modest further allocations to ensure that the PNP delivers sufficient housing.
50. The substantial need for affordable housing is an additional factor. The intended provision of the PNP was 40% of 768 units, i.e. 307 units. Bearing in mind the doubts as to delivery just expressed, and the proposed modification to the effect that the self/custom build sites will not have an affordable housing requirement, the reduced



delivery of affordable housing is a matter of concern. I bear in mind that one of the claimed benefits of self/custom build sites is that they should provide low cost housing for local people. The extent to which this will be achieved is unproven, and additionally there is a need for social rented accommodation.

### **Site allocations – Policy HP1**

51. Site H1, Land at Causeway Farm, is proposed to be allocated (indicatively) for 159 dwellings. A proposal for some 230 dwellings was recently dismissed on appeal. The present allocation is described in the Design Framework at page 96. A further “agreed plan” indicated an additional area for development. The issue in the examination was whether the land subject to the agreed plan should represent the allocation, or whether the allocation should be extended in accordance with a blue line shown on a plan included in the representations of R37. Attention was drawn to the conclusions of the appeal Inspector, particularly at paragraphs 52, 53 and 55. The Inspector concluded that the PNP proposal would maintain the important aspect of the countryside coming into the town, but that the appeal scheme would cause damage in relation to footpath 37 and various parts of Sussex Road. I note, however, that in paragraph 37 the Inspector did not indicate that the PNP allocation was necessarily the appropriate limit, but “the provision of a sizeable gap is necessary to ensure this important characteristic of Petersfield is maintained”, i.e. the aspect of countryside coming into the town. Having had a detailed site view, it seemed to me that once the decision has been made (as it has) that development should take place in a significant part of the field in question, there is no convincing case that an extension approximately in the location of the blue line would cause material additional impact to that already regarded as acceptable. It seemed to me that testing of suitable design and landscaping in relation, in particular, to footpath 37 would protect these interests, and that a scheme of up to 200 dwellings would prove acceptable.

**I therefore recommend that the PNP be modified by indicating “*up to 200*” in Table 1, and appropriate amendments be made to the plan and text at page 96.**

52. Site H2 I found to be an appropriate allocation, having regard to the relevant statutory tests. It seemed to me that the impact on the landscape and woodland would be acceptable.
53. I reach the same conclusion in relation to site H3.
54. I reach the same conclusion in relation to site H4.
55. I reach the same conclusion in relation to site H5.
56. Site H6 constitutes the Town Centre Redevelopment Opportunities. I have raised some concerns as to deliverability above, but there is no doubt that in land use terms these sites are appropriate.
57. Site H7 I find to be an appropriate allocation.
58. Site H8 is land south of Durford Road, proposed to be allocated for some 48 dwellings “for an ageing population” (see HP3). The proposal of the owners is to develop a Continuing Care Retirement Community (CCRC) with a range of different types of care accommodation. R38 contended, in essence, that the previously identified ecological constraints on the site were resolvable, that there was a significant unmet need for accommodation of the type proposed, and that the limit on density was unjustified. Conversely, several other representors contended, in essence, that the allocation was unacceptable in principle, as breaching the “town boundary” established by Harrier Way. I find this point unconvincing, since I was shown clear evidence that the eastern boundary of the proposed allocation coincides with the original boundary of the Heath, signified by a substantial tree belt. Subsequent to the debate at the hearing, an agreed text for modifications was produced. I agree that it is appropriate that the agreed modifications be made. The result is that it is agreed that the site has potential to yield over the presently indicated level of 48 units, to an

amount as yet untested. This would have the potential further to reduce the anticipated shortfall discussed at paragraph 48 above.

**I therefore recommend that the PNP be modified as follows:**

**H8, left column, third row:**

**“Appropriate Density: 15dph”:** the reference to “15dph” should be deleted and “N/A” should be inserted.

**H8, Right column, second row:**

**“Maximum density should not exceed 28 dph”** should be deleted.

**H8, Right column, third row:**

**“Indicative no. of dwellings: 48”**, the figure “48” to be amended to read **“Minimum of 48 dwellings”**.

**Further additional text to be inserted in same row or though footnote:** **“Due to the nature of the development proposed on the site (CCRC) an indicative dwelling number derived from approximate density is not appropriate”**.

**HP1, Table: H8:**

**“H8: 48”:** further text: **“Minimum of 48”** to be inserted.

**H8, Right column, second row:** Delete from **“The low density”** to **“ecological constraints have been met”**: Full paragraph now to read:

**“The number of dwellings and scale of the full development will be determined through the development management process in consideration of landscape impact on the SDNP and opportunities are taken for the restoration and management of habitats as part of the scheme”**.

59. Site H9 is clearly an appropriate allocation, should the site become available.
60. The same conclusion follows in relation to site H10.
61. I find that site H11 is an appropriate allocation.
62. The proposals for site H12, again to provide housing for an ageing population, constitute the redevelopment of previously developed land, and are clearly acceptable.

**Potential additional sites (in the sequence of the representor number)**

63. R9 promotes land at Causeway South for a care home. It was contended that, even if site H8 had greater capacity, a substantial need for this form of accommodation remained. Page 17 of the Landscape Assessments carried out for the PNP by the SDNPA indicate the medium-high landscape sensitivity of this site. It was contended that development would be highly visible from the countryside (especially Butser Hill) and the highway, and that it would constitute isolated development extending the town further into the countryside, including into a new landscape character area. I agree with these assessments, and do not recommend that this site be allocated.
64. R14 proposes an expansion of site H3 into the new sport/recreation allocation of C11. The proposals for site H10 would require the relocation of the Petersfield Town Juniors FC to site C11, this proposal being supported by the Town Council as landowner of C11. Site H3 is already the remotest purely residential allocation in the PNP. I agree with these objections, and do not recommend that this site be allocated.
65. R31 proposes a small housing allocation within the area of the green space shown as G6/G10. This forms part of a highly attractive series of green spaces passing from the A3 to the heart of the town. It is greatly valued by the local community, and I do not regard this proposal as appropriate.
66. R32 proposes a residential allocation of up to some 20 units (although a lower density was suggested as equally acceptable) to take place primarily on fields to the rear of the existing residential plot at 115 Sussex Road. It was suggested that the existing dwelling be demolished, replaced by a smaller dwelling together with access to the rear land. The main curtilage of this site is designated, along with all other dwellings and their gardens along the Sussex Road frontage, as an Area of Special Housing Character protected by Built Environment Policy 5 (BEP5). This carries forward a

similar policy, Policy H9 of the East Hampshire Local Plan saved policies. The substantial rear land at 115 Sussex Road, and the immediately adjacent modern development at Russell Way, are not so designated. Objection was taken to this proposed allocation partly on the basis of BEP5, but also on the basis of contentions as to the site's landscape sensitivity in local and longer views. In my assessment, the key issue here is less that of impact on the landscape and views, but rather the residential character of the town and especially BEP5. I would regard the formation of a new access to Sussex Road as damaging to the character of the area, and as setting an undesirable precedent in respect of this section of Sussex Road as a whole. On the site view, the suggestion of gaining access from Russell Way was tentatively raised. Such a proposal would not take place on BEP5 land, and might prove acceptable. However, this alternative suggestion is untested, and on present evidence there cannot be any confidence of delivery. For that reason, I do not recommend that the requested modification be made, but bear in mind the potential for a windfall proposal to be seen as complying with BEP5 and other relevant policies.

67. R33 proposes the residential development of a vacant employment site at Paris House, Frenchman's Road. The site is currently the subject of a planning application for 47 dwellings. There is an unresolved issue as to the viability of any proposals for B class use. In Table 12 – Employment Site Allocations, the site is an existing site, not a new allocation. The site appeared to me to be a suitable and sustainable site for residential development, but would be equally so for office development. The PNP and the local community value Petersfield as a town where people can both live and work. In these circumstances, it seems to me that the future of this site is best guided by Business Policy 2 (BP2).
68. R34 relates, in effect, to the car parking area at the corner of High Street/Dragon Street. This site was identified through the work on the East Hampshire SHLAA 2014 as a "large urban potential" site, with a capacity of 30 dwellings. Since the site was already "identified" and taken into account in the formulation of the housing requirement for Petersfield, it was not allocated to avoid double counting. Following discussions during and after the hearing, the QB and the SDNPA have no objection to

the identification of the site within the PNP, but without including the anticipated 18 dwellings within Table 1 as—it is contended—they do not contribute towards the requirement to allocate land. The owner maintains its objection to the “double counting” concerns expressed. I find it unnecessary to resolve this debate. The proposed modification makes it quite clear, in my view, that there could be no objection in principle to the site’s development. Indeed, as a run down, underused town centre site, its development for housing should be actively encouraged. Accordingly, I recommend the following **modification**:

**Section 11.2 Town Centre Opportunities, page 81**

**New Note following the table:**

*“3. In addition to those sites identified in Table 13, land at Dragon Street/High Street is anticipated to accommodate in the region of 18 dwellings. The site has been previously identified in work undertaken by the SDNPA and East Hants DC. It is shown on the map as site H6-3”.*

**New site H6-3 to be identified on Figure 8-Town Centre Opportunities**

**Overall conclusion on HP1**

69. My concern as to a potential shortfall identified above is mitigated by the recommended expansion of site H1, the potentially increased yield at site H8, and the potential for further windfalls as indicated above.

**I recommend that Table 1 be modified by expressing the indicative number of dwellings for site H1 as *up to 200*, for site H6 as 58, resulting in a total of 805.**

70. **I also recommend that the modifications identified in the Response at paragraph 8.1 and paragraph 19.1 be made.**

### **Policy HP2**

71. No modifications are called for in relation to this policy.

### **Policy HP3**

72. No modifications are called for in relation to this policy.

### **Policy HP4**

73. No modifications are called for in relation to this policy.

### **Policy HP5**

74. This seeks to phase housing development into two phases, 2015-2020 and 2021-2028. I expressed concern that this policy did not conform to national guidance, and the Response agreed that the timing of development should be linked to the provision of the necessary infrastructure.

**I recommend that the PNP be modified by the deletion of HP5 and its replacement by the text at paragraph 9.2 of the Response.**

### **Policy HP6**

75. Policy HP6 relates to the provision of affordable housing. It was not expressed clearly. The Response accordingly proposed a replacement policy.

**I recommend that policy HP6 be deleted, and replaced by the text at paragraph 10.1 of the Response.**

### **Policy HP7**

76. Policy HP7 relates to Custom and Self-Build Dwellings. I expressed concern (as did others) as to the delivery of this type of housing on this scale, and the rigidity of the occupational criteria. Paragraphs 11.1-11.7 of the Response respond in detail to these concerns. While not allaying entirely my concerns as to delivery, they are persuasive. I note in particular the support of the majority owner of site H2. So far as the occupational criteria are concerned, some contended that they were too strict, some that they were too lax. My conclusion is that they strike a reasonable balance between competing views, and I note in particular the inclusion within a modified policy of a review mechanism which will include review of the occupational criteria. I also note the suggested removal of the affordable housing requirement.
77. **Accordingly, I recommend the deletion of Policy HP7 and its replacement by the text at paragraph 11.8 of the Response.**

#### **Policy HP8**

78. Policy HP8 relates to the Size of Dwellings, with very detailed requirements. I expressed concern at the highly prescriptive nature of this policy, and drew attention to the new national policy in relation to technical standards. The Response accepted that there was clearly a need to reconsider this topic.

**I recommend, as suggested in the Response, that policy HP8 and the two preceding paragraphs be deleted, and the explanatory text set out at paragraph 12.3 of the Response be inserted (with consequential re-numbering).**

#### **Policy HP9**

79. Policy HP9 relates to the Quality and layout of housing developments. I also expressed concern as to the prescriptive nature of this policy. The Response agreed to a relaxation in relation to the Building for Life 12 assessment.



**I recommend that the modifications indicated at paragraphs 12.6 and 12.7 of the Response be made.**

80. The policy also contains requirement for minimum parking spaces within residential developments. I, and a number of representors, expressed concern in this respect. The SDNPA emphasised local concerns that there was not enough parking in the town centre in particular, and that policy HP9 was the appropriate response. Attention was drawn to the potential for relaxation indicated in the last paragraph of the policy. I am not entirely satisfied that this indication sufficiently conforms with national policy, in particular paragraph 39 of the NPPF.

**I recommend that policy HP9 be modified by inserting, after the second sentence of the last paragraph, a new sentence: “*Regard will be had to the factors specified in paragraph 39 of the NPPF*”.**

#### **Section 4 – The Built Environment**

##### **Built Environment Policy 1 (BEP1)**

81. The fourth sentence of the policies states that all proposals “must conform to any design guidance or code issued by the...SDNPA...”. I consider that this is both too prescriptive, and potentially uncertain in its scope. I prefer the approach taken in the subsequent policy, BEP2.

**I recommend the deletion of “*must conform to*” and the substitution of “*should take account of*”.**

##### **Policy BEP4**

82. My concern as to the prescriptive nature of this policy was responded to in paragraph 12.8 of the Response.

**I recommend that the heading to the policy be: *Shop Fronts in Conservation Area.***

## **Section 5 – Getting Around**

### **Getting Around Policy 1 (GAP1)**

83. I expressed a number of concerns as to the GAP policies, in particular the extent to which they related to development, and were deliverable. The Response responded positively to these concerns. Paragraph 13.2 indicates a re-wording of GAP1.

**I recommend that the modifications to GAP1 set out at paragraph 13.2 of the Response be made.**

### **GAP2-4**

84. In accordance with the earlier responses in relation to aspirational policies, it is proposed to remove these policies to the appendix, and **I recommend accordingly.**

### **GAP6**

85. This relates to the creation of an access to Festival Hall car park off Tor Way. My concerns as to this policy have been responded to in paragraphs 13.3-13.4 of the Response.

**I recommend that the modifications indicated at paragraphs 13.3-13.4 be made.**

## **Section 6 – Community**

86. The sole concern here relates to the Infant School at Hylton Road. Table 13 indicates an opportunity for some 20 dwellings to be developed on this site. This raised considerable concern by the education authority and other parties concerned with the school, essentially to the effect that there was no current intention that the present use would cease. This was accepted by the QB. In its representation R51, the PNP team proposed a number of detailed modifications intended to meet this concern. It seems to me that these should meet the concerns expressed.

**I recommend that the proposed modifications specified in R51 be made.**

### **Section 7 – Natural Environment**

87. The only potential concern here relates to NEP2, and the designation of 13 sites as Local Green Space in accordance with NPPF paragraphs 76-77. Subsequent to the hearing, I was supplied with a spreadsheet indicating how each site complied with national policy. No modification is called for here.

### **Section 8 – Business**

88. Two minor modifications are called for here.

**I recommend that line 1 of BP1 be amended by substituting the term “*employment*” for “*business*”. On page 68, the last sentence of text should commence with a reference to BP7.**

R11 objected to the new employment allocation at the car park off Frenchman’s Road. The owner proposes residential development on this site, alternatively that it should remain as a car park, contending that it is not available for employment use. It seems to me that the future of this site is likely to be resolved through the development management process, but that meanwhile it would be appropriate for the allocation to be retained.

### **Section 9 – Retail**

89. No modifications are appropriate here (subject to those relating to the Infant School referred to above).

### **Section 10 – Tourism**

90. No modifications are required here.

### **Section 11 – The Town Masterplan**

91. No modifications are required here, beyond those previously indicated. That is to say, modifications in relation to the Infant School, and the deletion of site H6-2 from Table 13.

### **Section 12 – Design Frameworks**

92. Modifications have already been recommended in relation to the Design Frameworks for sites H1 and H8.
93. The only additional matter relates to the representation of Southern Water, R15. Paragraphs 19.1 and 19.2 of the Response respond to their concerns.

**I recommend that the modifications indicated in paragraphs 19.1 and 19.2 be made.**

### **Additional matters**

### **Minerals Planning Authority**

94. In response to concerns, the Response proposes modifications at paragraphs 24.2-24.3.

**I recommend that those modifications be made.**

95. R39 indicates a number of further textual amendments being necessary.

**I recommend that the necessary textual modifications be made.**

I have carefully considered all the written representations. I have concluded that the PNP requires the modifications set out above in order to meet the statutory requirements, but that no further modifications are required.

## Summary

96. I have recommended a number of modifications above. Subject to these modifications, the PNP:
- has regard to national policies and advice contained in guidance issued by the Secretary of State;
  - contributes to the achievement of sustainable development;
  - is in general conformity with the strategic policies of the development plan for the area;
  - does not breach, and is compatible with European Union obligations and the European Convention of Human Rights.

Taking the above into account, I find that the PNP meets the Basic Conditions and other statutory requirements.

### **Referendum**

97. I recommend that, subject to the modifications proposed, the **PNP should proceed to a Referendum.**

### **Referendum Area**

98. I am required to consider whether the Referendum Area should be extended beyond the PNP Area. I consider the PNP Area to be appropriate and I found no evidence to demonstrate that this is not the case.

**I recommend that the PNP should proceed to a Referendum based on the PNP Area as approved by the SDNPA.**

**Christopher Lockhart-Mummery QC**

23 July 2015