

CHEDDAR NEIGHBOURHOOD PLAN – 2011-2027

(Submission Version)

Report of the Examination into the
Cheddar Neighbourhood Plan

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Report of the Examination into the Cheddar Neighbourhood Plan

1. Introduction

Neighbourhood planning

1. The Localism Act 2011 Part 6 Chapter 3 introduced neighbourhood planning, including provision for neighbourhood development plans. A neighbourhood development plan should reflect the needs and priorities of the community concerned and should set out a positive vision for the future, setting planning policies to determine decisions on planning applications. If approved by a referendum and made by the local planning authority, such plans form part of the Development Plan for the neighbourhood concerned. Applications for planning permission should be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes... can use neighbourhood planning to: set planning policies through neighbourhood plans to determine decisions on planning applications...¹

2. This report concerns the Submission Version of the Cheddar Neighbourhood Development Plan July 2011 - 2027 (“the Draft NDP”).

Appointment and role

3. Sedgemoor District Council (“SDC”), with the agreement of Cheddar Parish Council (“CPC”), has appointed me, to examine the Draft NDP. I am a member of the planning bar and am independent of SDC, CPC, and of those who have made representations in respect of the Draft NDP. I have been trained and approved by the Neighbourhood Planning Independent Examiner Referral Service (NPIERS). I do not have an interest in any land that may be affected by it.

4. My examination has involved a hearing on 12th January 2018, considering written submissions and unaccompanied site visits on 11th and 12th January 2018. The site visits included views of all sites shown on the proposals map on page 31.

5. My role may be summarised briefly as to consider whether certain statutory requirements have been met, to consider whether the Draft NDP meets the basic conditions, to consider human rights issues, to recommend which of the three options specified in paragraph 12 below applies and, if appropriate, to consider the referendum area. I must act proportionately, recognising that Parliament has intended the neighbourhood plan process to be relatively inexpensive.

¹ NPPF paragraph 183.

2. Preliminary Matters

Public consultation

6. I am satisfied that CPC took public consultation seriously and that sufficient consultation resulted. I bear in mind that parish councillors are democratically accountable, subject to a code of conduct and likely to be in close contact with the community they represent. I do not consider there has been any failure in consultation, let alone one that would have caused substantial prejudice. The consultation met the requirements of the Neighbourhood Planning (General) Regulations 2012 (“the General Regulations”).

Other statutory requirements

7. I am also satisfied of the following matters:

- (1) The Draft NDP area is the parish of Cheddar. CPC is authorised to act in respect of this area (Town and Country Planning Act 1990 (“TCPA”) s61F (1) as read with the Planning and Compulsory Purchase Act 2004 (“PCPA”) s38C (2)(a));
- (2) The Draft NDP does not include provision about development that is excluded development (as defined in TCPA s61K), and does not relate to more than one neighbourhood area (PCPA s38B (1));
- (3) No other neighbourhood development plan has been made for the neighbourhood area (PCPA s38B (2));
- (4) There is no conflict with PCPA s38A and s38B (TCPA Sch 4B para 8(1)(b) and PCPA s38C (5)(b)); and
- (5) The draft NDP specifies the period for which it is to have effect, namely 2011-2027, as required by PCPA s38B(1)(a).

3. The Extent and Limits of an Examiner’s Role

8. I am required to consider whether the Draft NDP meets the basic conditions specified in TCPA Sch 4B para 8(2) as varied for neighbourhood development plans, namely:

- (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)² 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

² The omission of (b) and (c) results from these clauses of paragraph 8(2) not applying to neighbourhood development plans (PCPA s38C (5)(d)).

(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.

9. There is one prescribed basic condition:³ *“The making of the neighbourhood development plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2010) 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)”*.

10. The combined effect of TCPA Sch 4B para 8(6) and para 10(3)(b) and of the Human Rights Act 1998 means that I must consider whether the Draft NDP is compatible with Convention rights. ‘*Convention rights*’ are defined in the Human Rights Act 1998 as (a) Articles 2 to 12 and 14 of the European Convention on Human Rights (“the Convention”), (b) Articles 1 to 3 of its First Protocol, and (c) Article 1 of its Thirteenth Protocol, as read with Articles 16 to 18 of the Convention. The Convention rights that are most likely to be relevant to town and country planning are those under the Convention’s Article 6(1), 8 and 14 and under its First Protocol Article 1.

11. In my examination of the substantial merits of the Draft NDP, I may not consider matters other than those specified in the last three paragraphs. In particular I may not consider whether any other test, such as the soundness test provided for in respect of examinations under PCPA s20, is met. Rather it is clear that Parliament has decided not to use the soundness test, but to use the, to some extent, less demanding tests in the basic conditions. It is not my role to write or to rewrite a neighbourhood development plan to create the plan that I would have written for Cheddar.

12. Having considered the basic conditions and human rights, I have three options, which I must exercise in the light of my findings. These are: (1) that the Draft NDP proceeds to a referendum as submitted; (2) that the Draft NDP is modified to meet basic conditions and then the modified version proceeds to a referendum; or (3) that the Draft NDP does not proceed to referendum. If I determine that either of the first two options is appropriate, I must also consider whether the referendum area should be extended. My power to recommend modifications is limited by statute in the following terms:

The only modifications that may be recommended are—

(a) modifications that the examiner considers need to be made to secure that the draft [NDP] meets the basic conditions mentioned in paragraph 8(2),

(b) modifications that the examiner considers need to be made to secure that the draft [NDP] is compatible with the Convention rights,

³ Sch 2 of the General Regulations prescribes this.

(c) modifications that the examiner considers need to be made to secure that the draft [NDP] complies with the provision made by or under sections 61E(2), 61J and 61L, (d) modifications specifying a period under section 61L(2)(b) or (5), and (e) modifications for the purpose of correcting errors.⁴

13. The word “only” prevents me recommending any other modifications. The fact that a modification is desirable is not a sufficient ground to recommend it. So, for example, a proposed modification which gives additional information cannot be justified simply because some would find that information helpful. It is not within my powers to recommend avoidance of repetition or other matters that some may consider unnecessary, unless it happens to come with one of the categories specified in paragraph 12 above.

4 Consideration of Representations

14. I have given all representations careful consideration, but have not felt it necessary to comment on most of them. Rather in accordance with the statutory requirement I have mainly concentrated on giving reasons for my recommendations.⁵ Where I am required to consider the effect of the whole Draft NDP, I have, of course, borne it all in mind.

5. Public Hearing

15. The general rule is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However an examiner must cause a hearing to be held for the purpose of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure (1) adequate examination of the issue or (2) a person has a fair chance to put a case. Having considered the written material, I concluded that (1) applied in respect of certain matters (*viz.* the adequacy and appropriateness of the land allocated for housing and policies EE3 and LEH2) and on 27th November 2017 issued guidance and directions in respect of this. The public hearing took place on one day in Cheddar. No participant requested an accompanied site visit. I am grateful to all those who helped me by taking part in this hearing. Their contributions were helpful and no discourtesy is intended by my not repeating them.

6. Basic conditions and human rights

Regard to national policies and advice

16. The first basic condition requires that I consider whether it is appropriate that the plan should be made “*having regard to national policies and advice contained in guidance issued by the Secretary of State*”. A requirement to have regard to policies and advice does not

⁴ TCPA Sch 4B, para 10(3).

⁵ TCPA Sch 4B, para 10(6).

require that such policy and advice must necessarily be followed, but it is intended to have and does have a significant effect.

17. The principal document in which national planning policy is contained is the National Planning Policy Framework (March 2012) (“the NPPF”) and I have borne that in mind. Other policy and advice that I have borne in mind includes national Planning Practice Guidance (“PPG”) and Written Ministerial Statement Planning Update: Written statement - HCWS488. At present there is a draft of a revised NPPF that has been subject to consultation. I am satisfied that, if this consultation draft were to be issued as a final revised NPPF without relevant alteration, nothing in it would alter my recommendations and nothing in it would require reconsultation. I reject the submission that the phrase “Local Plan” in the NPPF includes neighbourhood plans.

Contributing to the achievement of sustainable development

18. The second basic condition means that I must consider whether the making of the Plan contributes to the achievement of sustainable development. Unless the Draft NDP, or the Draft NDP as modified, contributes to sustainable development, it cannot proceed to a referendum. This condition relates to the making of the Plan as a whole. It does not require that each policy in it must contribute to sustainable development. It does require me to consider whether constraints might prevent sustainable development and, if they might, whether the evidence justifies them. That involves consideration of site-specific constraints, both existing such as the Area of Outstanding Beauty (“AONB”), Special Areas of Conservation (“SACs) and flood zone 3 and those proposed in the draft NDP such as the Green Wedge shown on Maps 5, 8 and 16, and the demands of general policies. The total effect of the constraints introduced by the draft NDP when read with existing constraints should not prevent the achievement of sustainable development.

19. The bulk of the NPPF constitutes guidance on sustainable development. Its paragraph 6 says, “*The policies in paragraphs 18 to 219, taken as a whole, constitute the Government’s view of what sustainable development... means in practice for the planning system.*”

20. I welcome the draft NDP’s support for walking, cycling and the use of public transport.⁶ Its emphasis on these contributes significantly to the environmental element of sustainable development.

21. The draft NDP’s support for heritage assets, is consistent with the duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 and contributes to the environmental element of sustainable development.⁷

⁶ Policies BE4, T2 and T3, paragraphs 2.8, 4.2, 4.3, 9.24, 9.26, 10.17, 12.1, 12.2, 12.6, 12.8, and 12.17 and the comment on policy T2 on page 76.

⁷ Policy BE4 and paragraph 2.8 and 9.21.

General conformity with the development plan's strategic policies

22. The third basic condition means that I must consider whether the Draft NDP is in general conformity with the strategic policies contained in the development plan for the area of the authority.

23. The adjective 'general' allows a degree of (but by no means unlimited) flexibility and requires the exercise of planning judgement. This condition only applies to strategic policies - there is no conformity requirement in respect of non-strategic policies in the development plan or in respect of other local authority documents that do not form part of the development plan. In assessing whether a policy is strategic, I have borne in mind the advice in PPG paragraph 074.⁸ I have also borne in mind the relevant part of the judgment in R (Swan Quay LLP) v Swale Borough Council.⁹

24. The most relevant part of the development plan is SDC's Core Strategy 2006 to 2027, which was adopted in 2011. This is the principal development plan for the district and sets out a vision and establishes the spatial strategy and policies, outlining the key infrastructure and investment decisions required to deliver this. I have considered this. There is an emerging Sedgemoor Local Plan ("SLP"). This is not the development plan for the purpose of the third basic condition, but its reasoning and evidence may be relevant as explained in the PPG.¹⁰

EU obligations

25. The fourth basic condition requires me to consider whether the Draft NDP breaches or is otherwise incompatible with, EU obligations. I have in particular considered the following: the Strategic Environmental Assessment Directive (2001/42/EC); the Environmental Impact Assessment Directive (2011/92/EU); the Habitats Directive (92/43/EEC); the Wild Birds Directive (2009/147/EC); the Waste Framework Directive (2008/98/EC); the Air Quality Directive (2008/50/EC); the Water Framework Directive (2000/60/EC); and the General Data Protection Regulation.

26. I have given careful consideration to Gladman Developments Limited ("Gladman") submission that the SEA underlying the emerging SLP might be found to be legally deficient. For that to matter there would have to be such a finding, and the deficiency would have to be relevant to a significant extent to the draft NDP. While SEA obligations are a serious matter, caution should be exercised when faced with an uncertain argument as to future decisions, not least in respect of a draft NDP for a community with a population of about 6,000. The

⁸ Reference ID: 41-074-20140306.

⁹ [2017] EWHC 420 (Admin), paragraph 29, Dove J, 27th January 2017.

¹⁰ Paragraph: 009 Reference ID: 41-009-20160211

decision on the SEA will be for others, but, on the balance of probability, I do not consider that it will be found to be defective in a way that has a significant effect on the contents of the draft NDP.

27. I am satisfied that no issue arises in respect of equality under general principles of EU law or any EU equality directive. I am satisfied that the making of the NDP would not breach, and be otherwise incompatible with, EU obligations and that it is not necessary to consider the matter further in this report.

European sites and European offshore marine sites

28. The draft NDP is unlikely to give rise to significant environmental effects on these sites. I am satisfied that the making of the NDP would not breach, and be otherwise incompatible with the prescribed basic condition and that it is not necessary to consider the matter further in this report.

Human Rights

29. English Planning law in general complies with the Convention. This matter can also be dealt with briefly in advance of detailed consideration of the contents of the Draft NDP. I have considered whether anything in the Draft NDP would cause a breach of any Convention right. In particular I have considered the Convention's Articles 6(1), 8 and 14 and its First Protocol Article 1. Nothing in my examination of the Draft NDP indicates any breach of a Convention right, so that no modifications need to be made to secure that the draft NDP is compatible with the Convention rights. It is therefore not necessary to consider human rights in the parts of this report that deal with specific parts of the Draft NDP.

7. The contents of the Draft NDP

General Comments

30. It will be apparent from the above that, having been satisfied in respect of basic conditions (f) and (g) and human rights, I have needed to concentrate on basic conditions (a), (d) and (e). My recommended modifications are those that I consider need to be made to secure that the Draft NDP meets these basic conditions and to correct errors.

The Green Wedge

31. Since it appears in different parts of the draft NDP, it is convenient to deal first with the proposed Green Wedge before moving to considering specific parts of the draft NDP in the order in which they appear. Draft NDP policy LEH2 proposes a Green Wedge between Cheddar, the reservoir and Axbridge. The extent of this Green Wedge is shown on Maps 5, 8

and 16. Its purpose is described as “*for leisure, recreation and maintenance of the countryside and preventing built up sprawl*” and protection of the “*western boundary of the village*”.¹¹ It occupies a substantial proportion of the parish close to the village that is not either already developed or within the Area of Outstanding Natural Beauty and has some aspects of a Green Belt and some of a Local Green Space (“LGS”). I note SDC in its ‘Assessment of Sites Proposed as Local Green Space Designations’ (January 2017) report included an assessment of a similar, but slightly larger, area of land as the proposed Green Wedge and concluded that it should not be designated as an LGS because:

“The site is an extensive tract of land.

Designation of the site as a whole could impede the ability of the LA to identify land suitable for housing that addresses development need.

There has been very little evidence provided to date that suggests this area of land is particularly important to the local community.”

32. The reference to *an extensive tract of land* must be to the NPPF’s paragraph 77’s third indent, the LGS designation should only be used “*where the green area concerned is... not an extensive tract of land.*”

33. Green wedges are not the same as either Green Belts or LGSs, (for example there is no requirement that they should be capable of enduring beyond the end of the plan period) and it is important to remember that different types of designations are intended to achieve different purposes. It is nonetheless also important to ensure that a Green Wedge does not approximate to the creation of a Green Belt (which NDPs cannot do) by another name approximate to the creation of an LGS that departs significantly from government advice and guidance. Particular care should be taken to ensure that designation of an extensive tract of land does not prevent the achievement of sustainable development. The point that the PPG makes about LGSs must also apply to a proposed green wedge: “*plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making*”.¹² I consider the Green Wedge shown on Maps 5 and 16 would, if not modified to reduce its extent significantly, be more likely than not to prevent the achievement of sustainable development. Designation of such a substantial proportion of the undeveloped, non-AONB, land in the vicinity of the village would be inappropriate. I have therefore concluded that the proposed Green Wedge means that the draft NDP conflicts with basic conditions (a) and (d).

34. That does not mean that a smaller area of land could not be designated, a possibility that I asked about at the hearing. There are proper planning grounds maintaining a gap

¹¹ Paragraph 13.13.6

¹² Paragraph: 007 Reference ID: 37-007-20140306.

between the settlements of Cheddar and Axbridge. The northern part of the proposed Green Wedge does this, while the southern part is not needed for this purpose. I accept the opinions of the Environmental Dimension Partnership Ltd in respect of the southern part of the Holwell Lane Phases 1 and 2 sites, which is not contradicted by any expert evidence. I have concluded that the area of Green Wedge should be reduced by excluding all land south of the field boundary that runs in approximately east-west direction between the A371 Upper New Road (immediately south of the allotments) and the reservoir and retaining in it the allotments and all other land north and west of this boundary. This land, which has a gross area of 18.89 hectares, is shown on the plan that Turley have helpfully provided.¹³ This smaller area of land would maintain a gap between the two settlements. The part of this retained Green Wedge furthest from Axbridge and closest to the village of Cheddar, the well-used allotments, is also worthy of protection because of its recreational value to the village.

35. The modification that I am recommending would avoid a conflict between the draft NDP and the emerging SLP's policy C2, the allocation for residential development of land north of Holwell Lane, west of Upper New Road. In doing so it would help the Plan as a whole to contribute to the achievement of sustainable development. Since I do not consider that this land plays a significant role in the separation of Cheddar from Axbridge, I disagree with that part of the reasoning for justifying it in Document 3.

Specific Comments

Page 31

36. The proposals map (Map 5) should be modified to reflect the reduced extent of Green Wedge detailed in paragraph 34 above.

Recommended modification 1

The Proposals Map should be modified by removing from the Green Wedge all land lying to the south of the field boundary that runs in approximately east-west direction between the A371 Upper New Road and the reservoir and is shown on Turley's Drawing Number 900 of 15.01.2017.

Page 35

37. Policy BE2 begins "Cheddar will allow for development of 200 - 300 new homes within the Parish between 2011 and 2027". There is a significant possibility that this will be too few. The submission version of the SLP specifies 612 dwellings for the period to 2032,

¹³ Drawing Number 900 of 15.01.2017.

which, when development with planning permission is allowed for, becomes 515.¹⁴ That is not a final figure, which may of course be higher or lower, but the significant extent by which it exceeds 200 to 300 points to it being likely that the final figure will be above the bracket specified in the draft NDP. The figure is however for a period that has almost 14 years to run and it is likely that the SLP will be adopted in the relatively near future. An allocation of a specific number of dwellings does not mean that the dwelling will be built at the average rate each year, but it helps to consider that average in order to assess the risk of harm of leaving the figure of 200 – 300 in the draft NDP. 515 dwellings over a 14-year period results in an average of fewer than 40 houses per year. The figure of 300 specified in the draft NDP would be achieved in 7.5 years if the rate of house-building were at that average. There would of course be the time between the grant of planning permission and the dwelling becoming available, but I am satisfied that the emerging SLP is likely to be adopted in very much less than that time. In the circumstances, notwithstanding the criticisms of those who want a higher figure, I have concluded that the matter can be adequately dealt with by modifying the opening words of the policy to read: “Cheddar will allow for development of 200 - 300 (or such higher figure as may be appropriate in the light of any future local plan) new homes within the Parish between 2011 and 2027”. If this modification were not to be made and the new Local Plan adopted a figure that (after allowance was made for the different end dates) was higher, PCPA s38(5) would apply, and the conflict would be resolved in favour of the figure in the new Local Plan.

38. Bearing in mind the need to act proportionately and the population of the Cheddar, I do not consider that the evidence on which policy BE2 is based would be out-of-date or insufficiently robust for a NDP plan that will in the relatively near future allow for any change in housing supply number brought about by the SLP. I would have doubts on this if this if the 200 – 300 were to last until 2027 whatever the outcome of the SLP process. If the URS methodology is wrong, the matter will be rectified in a relatively short space of time. Whether it is right or wrong is better resolved within the SLP process than within an NDP examination.

39. I have considered submissions that some of the housing need should be met with the AONB. In doing so I have born in mind the Countryside and Rights of Way Act 2000 Part IV and NPPF paragraph 115 and the relatively isolated locations of the AONB sites put forward. I do not consider that the housing need should be met on the Yeo Valley Site, the quarry to the north of the village, or elsewhere within the AONB. I recognise that the Yeo Valley site is previously developed land, but this employment land is subject to conditions for

¹⁴ I of course appreciate that this figure may have changed, but my conclusion does not depend on fine details.

the protection of bats, including a nearby maternity roost of lesser horseshoe bats,¹⁵ that would be impracticable in the case of dwelling houses.

40. I do not consider it appropriate to recommend modifying the draft NDP to extend its period.

Recommended modification 2

Alter the opening words of policy BE2 to read:

“Cheddar will allow for development of 200 - 300 (or such higher figure as may be appropriate in the light of any future local plan) new homes within the Parish between 2011 and 2027”

Page 39

41. The absolute nature of the sixth indent in policy BE4 is not justified. There may be circumstances where shared-driveway development is acceptable.

Recommended modification 3

Alter the sixth indent in policy BE4 to read:

“Whilst encouraging windfall development on infill sites, single tandem development (sites created in the back gardens of existing dwellings sharing the same driveway access as the original dwelling) will be resisted where they would have a significant adverse impact on neighbours.”

Pages 40 and 41

42. Policy BE5 prevents development in several directions. Without modification it would prevent, or greatly impede, expansion of Cheddar, should this be needed in order to achieve sustainable development. As far as the gap between Cheddar and Axbridge is concerned, for the reasons given above, I consider that there should be Green Wedge (reduced from its original size) to prevent the merger of the two settlements. Draycott, Wedmore and Shipman are more distant and I can see no risk of Cheddar merging with them. The B3151 from the top of Cheddar Gorge into Cheddar is not appropriate location for residential development. Moor Lane does not appear to be within the parish, but the reference to it must be to Brook Bank. The draft NDP cannot relate to land outside the parish, but I agree that Brook Bank within the parish would not be appropriate for residential development. Ribbon development is an imprecise term that can sometimes mean development that fronts a road, but does not include development further from the road. I am not satisfied that is appropriate to resist development on all parts of the road to Clewer.

¹⁵ *Rhinolophus hipposideros*, a species protected by the EU Habitats Directive (92/43/EEC).

43. There was force in Gladman's submission that if BE2 is modified to allow for a higher figure should this be the result of the SLP process there would be tension with policy BE5. I am satisfied that my recommended modification removes that concern.

Recommended modification 4

A. Alter policy BE5 to read:

“The Vision statement expresses a desire to keep the village compact and to maintain the ‘community feel’ of the village. We will support appropriate development primarily within the development boundary. Development on the Green Wedge between Cheddar and the adjacent settlement of Axbridge will be resisted.

To protect the surrounding countryside, residential development will be resisted along the B3151 from the top of Cheddar Gorge into Cheddar.

The part of Brook Bank from Cocklake to Draycott that runs through the Parish of Cheddar has no houses along it. This part of the road should be left as a country lane without residential development.”

B. Alter paragraph 9.31 to read:

“Keeping Cheddar a distinctive destination for visitors means restricting development so Cheddar is not merged with Axbridge. When coming into Cheddar from the Wells direction that there is a green gateway to the village, and Cheddar really starts as you come over the bridge to the church. This type of gateway is significant. Routes across the Moors are currently free of houses and should remain so.”

Page 47

44. Map 8 should be modified to reflect the reduced extent of Green Wedge detailed in paragraph 34 above.

Recommended modification 5

The Proposals Map should be modified by removing from the Green Wedge all land lying to the south of the field boundary that runs in approximately east-west direction between the A371 Upper New Road and the reservoir and is shown on Turley's Drawing Number 900 of 15.01.2017.

Page 48

45. I have reached the conclusion that site B should not be subject to a designation to prevents development. It follows that I do not consider that paragraph 9.44 should remain as it is.

Recommended modification 6

Replace paragraph 9.44 with:

“There is evidence of the presence of bats and dormice on site B. Before further permission are granted in respect of the sites, its impact on protected species should be properly considered.”

Page 49

46. Policy BE6 allows for approximately 230 houses. For the reasons given above this may be too few. However it is a permissive policy. The important thing is that enough land is available to meet the needs for sustainable development and this policy does not prevent that.

Page 56

47. The numbering of the map at the end of this paragraph 10.22 is an error.

Recommended modification 7

Replace the words in brackets at the end of paragraph 10.22 with:

“(Map 10)”

Page 58

48. Sainsbury Supermarkets Ltd has objected to policy EE3. It owns land west of Cheddar Business Park at Steart Farm that currently has planning permission for retail development and was formerly allocated for commercial use in SDC’s 1991 to 2011 Local Development Plan. It is next to Cheddar Business Park, Wedmore Road and has access directly on to the B3151. The current and likely future increase in housing in Cheddar means that employment land will be needed if the residents of these new dwellings are not to commute to an excessive extent. In addition to the unsustainability of excessive private motor-car commuting, the limitations of local roads means that the resulting increase in traffic would be undesirable. The site also has the advantage of being located where most traffic to and from it would avoid the village centre. Steart Farm is an obvious extension to the Cheddar Business Park. In its regulation 14 response Wessex Water stated that the site was on the fringes of the odour consultation zone existing Sewage Treatment Works and expressed a preference for industrial/business rather than residential use. Since part of the site is on Flood Zone 3, use of this for housing would be contrary to NPPF paragraphs 100 and 101, but it could be used for green space associated with housing. I share the CPC’s view that this would be a good site for providing business-park employment opportunities. However, the important question is whether policy EE3 and its associated text result in a breach of a basic condition. I do not consider that it does. I am therefore not recommending

any modification in respect of the Steart Farm site to policy EE3, Map 13, or paragraph 10.17. Should the SLP once adopted allocate it as a housing, PCPA s38(5) will apply and the conflict would be resolved in favour of the SLP policy.

49. Policy EE3 would restrict the use of the Yeo Valley site to “allocate it, for office and serviced office use, light industrial use / commercial and high technology use (category B1, B2, & B8)”. This site is previously developed land, but it is also close to a maternity roost of lesser horseshoe bats, in the AONB, adjoins SSSI & SAC, in the narrow gap between Cheddar and Axbridge and more than a convenient walking distance from the main facilities in Cheddar village. It is present subject to conditions protecting bats that would not be appropriate for dwelling houses. I am of the firm view that the Yeo Valley site would be a particularly inappropriate location for dwelling houses and have no doubt that, if required to achieve sustainable development, better locations for residential development could be found within the parish. The policy’s present wording does not use the correct terminology. I therefore recommend a minor modification to deal with this.

Recommended modification 8

Replace the first sentence of the second paragraph of policy EE3 with:

“We will support the use of the existing ‘Yeo Valley’ site as shown on Map 13 and we would allocate it, for office and serviced office use, light industrial use / commercial and high technology use (within use classes B1, B2 and B8), resisting other uses unless there is evidence that the land is not required for these uses.”

Page 67

50. Paragraph 13.3 goes too far in saying “*the rest of the countryside*”, i.e. non-AONB countryside, “*also needs protection*”. Some development in the countryside is needed if government policy is to be complied with and sustainable development achieved. It should be modified to be less absolute. Blanket restrictions on development in undesignated countryside, require robust evidence of some demonstrable physical attribute, rather than just popularity, in respect of all parts of the countryside concerned. That does not exist in respect of all countryside in the parish.

Recommended modification 9

Replace the third sentence of paragraph 13.3 with:

“However protection of other countryside needs to be considered so that this part of Somerset is kept attractive.”

51. For the reason given above the Green Wedge in the draft NDP is too extensive. If the extent of the Green Wedge were not reduced policy LEH2 would be likely to prevent the achievement of sustainable development. With its recommended reduction a Green Wedge is justified in order to maintain the separation of Cheddar and Axbridge. The remaining reasons put forward for the Green Wedge may provide some peripheral benefit, but would not in themselves justify the policy. I therefore recommend its modification.

Recommended modification 10

A. Replace the third sentence of paragraph 13.13 with:

“We propose that part of this western boundary of the village be protected as a Green Wedge.”

B. Replace policy LEH2 with:

“The Green Wedge shown on Map 16 below is to maintain the separation of Cheddar and Axbridge. Development will not be supported within this.”

52. Map 16 should be modified to reflect the reduced extent of Green Wedge detailed in paragraph 34 above.

Recommended modification 11

Map 16 should be modified by removing from the Green Wedge all land lying to the south of the field boundary that runs in approximately east-west direction between the A371 Upper New Road and the reservoir and is shown on Turley’s Drawing Number 900 of 15.01.2017.

8. Updating

53. It may be that certain passages need updating. Nothing in this report should deter appropriate updating prior to the referendum in respect of incontrovertible issues of primary fact.

9. The Referendum Area

54. I have considered whether the referendum area should be extended beyond the designated plan area, namely the parish of Cheddar, and see no reason to extend the area beyond the parish. I therefore recommend that the referendum area be limited to the parish.

10. Summary of Main Findings

55. I commend the Draft NDP for being well written, logical, clear, appropriately concise and intelligible to a reasonably intelligent lay reader with no expertise in town and country planning.

56. I recommend that the draft NDP be modified in the terms specified in Appendix A to this report in order to meet basic conditions and to correct errors. I am satisfied with all parts of the draft NDP to which I am not recommending modifications.

57. With those modifications the draft NDP will meet all the basic conditions and human rights obligations. Specifically

- Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the NDP;
- The making of the NDP contributes to the achievement of sustainable development;
- The making of the NDP is in general conformity with the strategic policies contained in the development plan for the area of Cheddar (or any part of that area);
- The making of the NDP does not breach, and is not otherwise incompatible with, EU obligations;
- The making of the NDP is not likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects); and
- The modified draft NDP is in all respects fully compatible with Convention rights contained in the Human Rights Act 1998.

58. I recommend that the modified NDP proceed to a referendum, the referendum area being the parish of Cheddar.

Timothy Jones, Barrister, FCI Arb,

Independent Examiner,

No 5 Chambers

17th May 2018.

Appendix A: Recommended Modifications

Recommended modification 1

The Proposals Map should be modified by removing from the Green Wedge all land lying to the south of the field boundary that runs in approximately east-west direction between the A371 Upper New Road and the reservoir and is shown on Turley's Drawing Number 900 of 15.01.2017.

Recommended modification 2

Alter the opening words of policy BE2 to read:

“Cheddar will allow for development of 200 - 300 (or such higher figure as may be appropriate in the light of any future local plan) new homes within the Parish between 2011 and 2027”.

Recommended modification 3

Alter the sixth indent in policy BE4 to read:

“Whilst encouraging windfall development on infill sites, single tandem development (sites created in the back gardens of existing dwellings sharing the same driveway access as the original dwelling) will be resisted where they have a significant adverse impact on neighbours.”

Recommended modification 4

A. Alter policy BE5 to read:

“The Vision statement expresses a desire to keep the village compact and to maintain the ‘community feel’ of the village. We will support appropriate development primarily within the development boundary. Development on the Green Wedge between Cheddar and the adjacent settlement of Axbridge will be resisted.

To protect the surrounding countryside, residential development will be resisted along the B3151 from the top of Cheddar Gorge into Cheddar.

The part of Brook Bank from Cocklake to Draycott that runs through the Parish of Cheddar has no houses along it. This part of the road should be left as a country lane without residential development.”

B. Alter paragraph 9.31 to read:

“Keeping Cheddar a distinctive destination for visitors means restricting development so Cheddar is not merged with Axbridge. When coming into Cheddar from the Wells direction that there is a green gateway to the village, and Cheddar really starts as you come over the

bridge to the church. This type of gateway is significant. Routes across the Moors are currently free of houses and should remain so.”

Recommended modification 5

The Proposals Map should be modified by removing from the Green Wedge all land lying to the south of the field boundary that runs in approximately east-west direction between the A371 Upper New Road and the reservoir and is shown on Turley’s Drawing Number 900 of 15.01.2017.

Recommended modification 6

Replace paragraph 9.44 with:

“There is evidence of the presence of bats and dormice on site B. Before further permission are granted in respect of the sites, its impact on protected species should be properly considered.”

Recommended modification 7

Replace the words in brackets at the end of paragraph 10.22 with:

“(Map 10)”.

Recommended modification 8

Replace the first sentence of the second paragraph of policy EE3 with:

“We will support the use of the existing ‘Yeo Valley’ site as shown on Map 13 and we would allocate it, for office and serviced office use, light industrial use / commercial and high technology use (within use classes B1, B2 and B8), resisting other uses unless there is evidence that the land is not required for these uses.”

Recommended modification 9

Replace the third sentence of paragraph 13.3 with:

“However protection of other countryside needs to be considered so that this part of Somerset is kept attractive.”

Recommended modification 10

A. Replace the third sentence of paragraph 13.13 with:

“We propose that part of this western boundary of the village be protected as a Green Wedge.”

B. Replace policy LEH2 with:

“The Green Wedge shown on Map 16 below is to maintain the separation of Cheddar and Axbridge. Development will not be supported within this.”

Recommended modification 11

Map 16 should be modified by removing from the Green Wedge all land lying to the south of the field boundary that runs in approximately east-west direction between the A371 Upper New Road and the reservoir and is shown on Turley’s Drawing Number 900 of 15.01.2017.

Appendix B: Abbreviations

The following abbreviations are used in this report:

AONB	Area of Outstanding Beauty
Convention	European Convention on Human Rights
CPC	Cheddar Parish Council
Draft NDP	The Submission version of the Cheddar Neighbourhood Plan 2011-2027
EU	European Union
General Regulations	Neighbourhood Planning (General) Regulations 2012 (as amended)
Gladman	Gladman Developments Limited
LGS	Local Green Space
NDP	Neighbourhood Development Plan
NPPF	National Planning Policy Framework (DCLG, March 2012)
p	page
para	paragraph
PPG	national Planning Practice Guidance
PCPA	Planning and Compulsory Purchase Act 2004 (as amended)
s	section
SAC	Special Area of Conservation
Sch	Schedule
SDC	Sedgemoor District Council
SLP	Sedgemoor Local Plan
TCPA	Town and Country Planning Act 1990 (as amended)

Where I use the verb ‘include’, I am not using it to mean ‘comprise’. The words that follow are not necessarily exclusive.