

**BISHOP'S STORTFORD TOWN COUNCIL NEIGHBOURHOOD PLAN FOR  
SILVERLEYS AND MEADS WARDS (1st REVISION) 2021-2033**

**BISHOP'S STORTFORD TOWN COUNCIL NEIGHBOURHOOD PLAN FOR ALL  
SAINTS, CENTRAL, SOUTH AND PART OF THORLEY  
(1st REVISION) 2021-2033**

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REPORT

By  
**Christopher Lockhart-Mummery QC**

**Independent Examiner  
May 2022**

## **SUMMARY**

This combined Report relates to two closely integrated Neighbourhood Plans, the Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards (1<sup>st</sup> Revision) 2021-2033 and Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and Part of Thorley (1<sup>st</sup> Revision) 2021-2033.

The Neighbourhood Plan areas are two extensive and contiguous areas comprising the whole of the civil parish of Bishop's Stortford, the largest town in the East Herts District Council area, and parts of Thorley Parish. Bishop's Stortford has an important sub-regional role, and is designated in the East Herts District Plan (October 2018) as a Principal Town Centre. Within the Neighbourhood Plan areas are a number of sites subject to significant allocations in the District Plan. One of the primary tasks of the Neighbourhood Plans is, consistent with the District Plan allocations, to set out locally based policies for their successful development.

Each Neighbourhood Plan is in two parts. Part 1 contains an Introduction and Site Specific Policies. Part 2 is titled Site Independent Policies, and relates to the entire respective plan area. Part 2 of each Neighbourhood Plan is materially identical.

In the case of each Neighbourhood Plan the qualifying body – Bishop's Stortford Town Council – contended that the modifications to the previously made Plans were material but did not change the nature of the plan. The Report sets out my agreement with this assessment. In neither case would a referendum be necessary.

The examination was conducted by consideration of all the relevant documents only. I concluded that the exceptional circumstances for the holding of a hearing did not exist.

Each Neighbourhood Plan was subject to extensive public engagement and consultation.

I find that each Neighbourhood Plan is, with very few exceptions, well-evidenced, clear, well presented and promises to provide an important addition to the development plan for the area.

Subject to a limited number of recommended modifications, I find that each Neighbourhood Plan complies with the Basic Conditions and other statutory requirements. I therefore conclude and Recommend that East Herts District Council should make both Neighbourhood Plans subject to the modifications specified in the Report.

## CONTENTS

	<b>Pages</b>
Introduction	1
Background to Submission Neighbourhood Plan Revision	1-2
Consultation	3
Overview of SMNP2	3-4
Overview of ACSTNP2	4
Statutory requirements in relation to a Revision NP	4-6
Are the Revisions so significant or substantial as to change the nature of either NP?	6
Consideration of statutory requirements	7
Other statutory requirements	7-8
The Examination process	8
Consideration of proposed Revisions	8-9
SMNP2 Part 1	9-10
ACSTNP2 Part 1	10-13
Part 2 of both Plans	14-18
Conclusion	18

### **Introduction**

1. I was appointed by East Herts District Council (the DC) with the support of the qualifying body, Bishop's Stortford Town Council (the TC) to undertake the independent examination of the submission drafts of the Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards (1<sup>st</sup> Revision) 2021-2033 and Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central, South and Part of Thorley (1<sup>st</sup> Revision) 2021-2033. These Plans are both revisions of previously made plans.
2. I am a Queen's Counsel with over 40 years' experience in planning law and practice. I am a member of the NPIERS Panel of Independent Examiners. I am independent of any local connections and have no conflict of interest.

### **Background to Submission Neighbourhood Plan Revision**

3. Bishop's Stortford is the largest town in the District with an important sub-regional role, underpinned by good transport links. It is designated as a Principal Town Centre. The town is unusual in East Herts in having several remaining brownfield redevelopment opportunities, although the scale of housing need in the local area also necessitates the provision of urban extensions on land adjoining the town (DP 5.1.1).
4. Paragraph 5.2.1 of the East Herts District Plan (the DP) notes that there are two Neighbourhood Plans covering the area. The Silverleys and Meads Plan was made in July 2015 with a plan period of 2014-2031. The All Saints, Central, South and Part of Thorley Plan was made in October 2017 with a plan period of 2016-2032.
5. The DP was adopted by the DC in October 2018, with a plan period of 2011-2033. Chapter 5 is devoted to Bishop's Stortford.
6. Policy BISH1 sets out overall provisions for development in Bishop's Stortford. BISH2 anticipates a Town Centre Planning Framework – this was published in March 2017 and approved by the DC in July 2017. BISH2

provides for a minimum of 2,529 homes at Bishop's Stortford North. BISH4 provides for some 247 homes at land south of Hadham Road. BISH5 provides for some 750 homes at Bishop's Stortford South. BISH6 provides for some 150 homes at the Bishop's Stortford High School site, contingent on secondary school capacity being provided elsewhere. BISH7 provides for some 600 homes and other uses in the period 2011-2027 at The Goods Yard. BISH8 provides for some 100 homes and other uses at Old River Lane. BISH9 provides for some 50 dwellings by 2022 at East of Manor Links.

7. Chapter 19 of the DP (paragraph 19.3.1) recognises the potential designation under the NPPF of land as Local Green Space. Policy CFLR2 Local Green Space provides that: *Development will be permitted only if it is consistent with the function, character and use of the Local Green Space to which it relates.*
8. The two submitted plans have been prepared in very close alignment with each other. Each is presented in two Parts. Part 1 contains an Introduction and Site Specific Policies. Part 2 is titled Site Independent Policies, and relates to the entire respective plan area. Part 2 of each plan is materially identical. Each plan has a plan period of 2021-2033. The plan for Silverleys and Meads Wards (1<sup>st</sup> Revision) is referred to in this report as SMNP2. The plan for All Saints Central, South and Part of Thorley is referred to as ACSTNP2.
9. Both the local planning authority (the DC) and the qualifying body (the TC) considered it sensible, as do I, that in view of the very large measure of commonality between the two plans, a single examiner be appointed. Acknowledging that statute requires that an examiner's report be prepared and submitted in relation to each Neighbourhood Plan, I also thought it sensible – to avoid very substantial duplication – to combine both reports in this single, consolidated document. Any person with an interest in one of the plans only will have no difficulty in accessing the relevant part(s) of this report, and the Contents sheet will assist.

### **Consultation**

10. Consultation was carried out in relation to what was described as the Neighbourhood Plan for Bishop's Stortford and part of Thorley Parish (1<sup>st</sup> Revision), i.e. as if both plans effectively formed one plan. This seems to me to have been a sensible decision. As a result, a single Consultation Statement Summary with two Appendices, was prepared. Reference can be made to the CS with the details of the consultation.
11. I am satisfied that, despite constraints imposed by Covid, the TC went to extensive lengths to engage interested parties, and that the consultation was more than adequate.
12. Regulation 16 consultation was carried out for each plan between 29 November 2021 and 24 January 2022. Twelve representations were made in relation to SMNP2. Twenty three representations were made in relation to ACSTNP2. I have taken them all into account. In this report I respond to those representations which, in my view, are directed to the statutory tests and call for a recommended Modification.

### **Overview of SMNP2**

13. Part 1 contains two aspects. First, under the heading S11 it specifies the “designated locations” referred to in Policies GIP2 a) and c) and TP4 h) of Part 2. These deal (respectively) with local green spaces, other green areas, and proposals for enhanced movement for pedestrians and cyclists in the town (including the Town Centre). Second, it proposes a Policy, ORL1 relating to a proposed SPD for The Old River Lane site in the town centre.
14. The principal changes proposed in Part 2 (almost entirely in common with ACSTNP2) are as follows:
  - (1) The addition of 4 policies (CC1-CC4) in relation to Climate Change.
  - (2) In section 3.2, relatively minor changes to Housing and Design policies (HDP).

- (3) In section 3.4, modifications in relation to Green Infrastructure policies (GIP1-GIP8) which includes the designation of local green spaces and other green areas referred to above.
- (4) In section 3.5 and 3.6 modifications in relation to Transport and Education which strengthen and update policies in the made plan.

### **Overview of ACSTNP2**

- 15. Part 1 has the same format as SMNP2. Under GIP2 it proposes the designation of 26 local green spaces and 13 other green areas referred to in GIP2 a) and c) in Part 2. Under TP4 it proposes to describe nine matters to improve transport accessibility (especially for pedestrians and cyclists). Under TP6 it specifies locations for improvements to school travel.
- 16. In section 3.2 it proposes detailed policies, GY1-GY6, for the development of The Goods Yard site allocated for development by policy BISH7 of the CP.
- 17. Section 3.3 proposes policies, BSS1-BSS5, for the delivery of the DP allocation BISH5, Land South of Bishop's Stortford.
- 18. Sections 3.4 and 3.5 similarly relate to the delivery of the DP allocation at the Bishop's Stortford High School site, and East of Manor Links.
- 19. As already noted, Part 2 is very largely a mirror image of Part 2 of SMNP2.

### **Statutory requirements in relation to a Revision NP**

- 20. Section 38A(11A) of the Planning and Compulsory Purchase Act 2004 provides that Schedule A2 applies provisions for the modification of a neighbourhood development plan.
- 21. The relevant provisions of Schedule A2 are as follows. Paragraph 1 provides that a qualifying body can submit a proposal to the local planning authority for the modification of a neighbourhood development plan. Paragraph 7 provides that it applies if "(c) the authority consider that the modifications contained in



the draft plan to which it relates are so significant or substantial as to change the nature of the neighbourhood development plan which the draft plan would replace”. If that is the position, the authority must consider the plan under the provisions of Schedule 4B that apply to an original neighbourhood plan (including referendum). Paragraph 10 provides that the matter referred to above is the first matter for the examiner to determine. Paragraph 11 provides that if the determination is made that the modifications are not such as to change the nature of the plan, “...the examiner must consider the following –

- (a) whether the draft 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;
- (c) such other matters as may be prescribed”.

Paragraph 11(2) provides that a draft 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,
- (b) the making of the plan contributes to the achievement of sustainable development,
- (c) 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),
- (d) the making of the plan does not breach, and is otherwise compatible with EU obligations, and
- (e) prescribed conditions are met in relation to the plan and prescribed matters have been complied with in connection with the proposal for the plan.

Paragraph 11(3) provides: “The examiner is not to consider any matter that does not fall within sub-paragraph (1) (apart from considering whether the draft plan is compatible with the Convention rights)”.

22. Paragraph 12 provides that a hearing is only required “in any case where the examiner considers that there are exceptional reasons for doing so”.
23. Paragraph 13 provides for the examiner’s report.
24. Paragraph 14 provides that if the examiner recommends that the local planning authority should make the draft plan – with or without modifications – the authority must make the plan. In other words, there is no provision for a referendum.

**Are the Revisions so significant or substantial as to change the nature of either NP?**

25. PPG advises that in making this decision the examiner will consider the nature of the existing plan, alongside representations and the statements on the matter made by the qualifying body and the local planning authority. It is also suggested that allocating significant new sites for development might require both examination and a referendum.
26. In the case of each plan, the TC provided, pursuant to statutory requirements, a Statement of Significant Changes which concluded that in each case the modifications were more significant than “minor (non-material) modifications”, less significant than “material modifications which change the nature of the plan”, but rather that they are material modifications which are not so significant or substantial as to change the nature of either plan. They gave detailed reasons. No new development allocations are made (as opposed to policies for the detailed delivery of the DP allocations). Without the need to recite the reasons given by the TC, I am in agreement with them. I notified the TC and DC of this agreement by email dated 1 April 2022. Accordingly, the plans require examination but not referendum.

**Consideration of statutory requirements**

27. I have set out the relevant terms of Schedule A2 above. The statutory tests relate to “whether the draft plan” meets the statutory requirements. Paragraph 11(3) provides that the “draft plan” means “a draft of the neighbourhood development plan as proposed to be modified”. In other words, the examiner is to consider whether the proposed Modifications meet the statutory tests. Accordingly, this examination and my report will consider the Modifications only.
28. Paragraph 11(3) is of wider importance for this – and, indeed, any – examination. Unlike, for example, the examination of a local plan, the role of the examiner is confined as above. Thus a point made in a representation might be sensible, arguably make the NP a “better” plan, but is only to be considered in this examination in accordance with the statutory tests.

**Other statutory requirements**

29. These are set out in the Town and Country Planning Act 1990 (as amended) and sections 38A-38C of the Planning and Compulsory Purchase Act 2004.
30. The NP was prepared and submitted for examination by a qualifying body: section 38A.
31. Each plan has been prepared for an area designated under section 61G of the 1990 Act.
32. Each NP meets section 38A(2) in that it sets out policies in relation to the development and use of land in each neighbourhood area.
33. Each NP meets the requirements of section 38B – it specifies the period for which it is to have effect, it does not include provisions about development which is an excluded development, and does not relate to more than one neighbourhood area.

34. On 20 October 2021 the DC advised the TC in relation to each plan that (1) SEA was not required as each plan was unlikely to have significant environmental effects and (2) each plan was unlikely to have a significant effect upon a Natura 2000 designation and therefore did not require an HRA.
35. I accept that each plan had regard to the fundamental rights and freedoms guaranteed under the European Convention on Human Rights and complies with the Human Rights Act.

#### **The Examination process**

36. I was appointed in March 2022 and the examination formally commenced on 21 March. I was supplied by the DC (in electronic and physical form) with all the submission and background documents, together with the regulation 16 representations. I confirm that I have read all such documents.
37. I carried out an unaccompanied site visit to the town on 3 May 2022.
38. I did not consider that there were any exceptional circumstances to justify a hearing, and communicated that decision to the TC and DC on 13 April 2022.
39. I found that I had a limited number of queries. These were dealt with by emails in April 2022. They are publicly available on the relevant websites.

#### **Consideration of proposed Revisions**

40. The task of the examiner is to assess the compliance of the plans with the Basic Conditions and other statutory requirements. I cannot make any recommendation in relation to any other matter: paragraph 13(3) Schedule A2, Planning and Compulsory Purchase Act 2004. This is important. In a number of representations there are suggestions that changes should be made (e.g. the addition of one or more local green spaces) which may well have merit. But my role is more limited, as set out above.
41. I now turn to that task in relation to each plan. Where I am silent as to any part of either plan, that indicates that I have no concern as to compliance.

42. I wish to pay tribute to all those involved in the drafting of both plans. I find that, with very few exceptions, the contents of both are well-evidenced, clear, well presented and promise to make an important addition to the development plan for the area. This enables this report to be much more concise than otherwise would be the case.
43. Both plans refer to the relevant paragraphs of the NPPF 2019. All these should be updated by reference to the NPPF 2021. Further, a number of policies have a sub-paragraph a) only. These references should be deleted, and I so **Recommend**.

## **SMNP2**

### **Part 1**

44. Paragraph 1.2.1.4 states that a Neighbourhood Plan cannot “... or amend the boundaries of the Green Belt”. This is incorrect: NPPF 140. I **Recommend** that this phrase be deleted.
45. I have considered each of the proposed local green spaces (LGS) designated under Part 2 of policy GIP2 and listed on page 12 of Part 1. Each is shown on Policy Maps and its character and special value described in paragraph 6.3. I have no reason to doubt that each fulfils the criteria in paragraph 102 of NPPF. I deal under Part 2 with the appropriateness of the relevant policy in GIP2 a).
46. Page 12 of Part 1 also lists four “other green areas” which are engaged by policy GIP2 c) in Part 2. These are likewise described in paragraph 6.3. I have no reason to doubt that these are appropriately designated.
47. Policy ORL1 – Old River Lane – requests that there should be an SPD in relation to the site. This policy is not a land use policy, but a plea to the DC to formulate an SPD. It therefore does not comply with section 38A of the 2004 Act. I **Recommend** that policy ORL1 be deleted and replaced with the following lower case text: *It is desirable that development of Old River Lane should be informed by a Supplementary Planning Document (SPD) and the*

*District Council are encouraged to prepare such a document. Once adopted it will be a material consideration in the determination of planning applications for the site.*

The reference to paragraph 3.2 in the Contents on page 2 should be **deleted**.

## **ACSTNP**

### **Part 1**

48. Paragraph 1.2.1.4 is incorrect, and I make the same **Recommendation** as in paragraph 44 above.
49. Paragraph 2.3.1 contains text in relation to The Goods Yard. I **Recommend** that an additional paragraph be added as 2.3.1.3 to reflect the fact that planning permission (outline and detailed) has been granted for a major comprehensive scheme. Relevant policies are set out in section 3.2, considered below.
50. Paragraph 2.3.2 also needs updating, to reflect the position in relation to the grant of planning permission. It should state that relevant policies are set out in section 3.3: I so **Recommend**.
51. Paragraph 2.3.3 refers to the Bishop's Stortford High School site. To ensure that the plan is up-to-date I **Recommend** that paragraph 2.3.3.1 should be deleted and replaced by: *Bishop's Stortford High School is bounded by existing housing estates on three sides and the main London Road on the other. Bishop's Stortford High School is moving to a new site on the development at Bishop's Stortford South. The District Plan provides for the vacated site to be redeveloped with around 150 new homes. Plans for the development have received a resolution to grant outline planning permission at Development Management Committee on 4 November 2020 for up to 223 dwellings under application reference 3/18/2253/OUT.*

Paragraph 2.3.3.2 should be **deleted**.

52. Paragraph 2.3.4 refers to the East of Manor Links site. Planning permission for residential development was granted in February 2021, and construction has begun. However, the development is currently at an early stage. That being so, the cautious approach is for the text at 2.3.4 to incorporate a note (such as: *Planning permission for residential development was granted in February 2021 [3/20/0245/FUL]*, and for the time being to retain the objective in paragraph 2.3.4.3. For consistency, the policy section applicable to this site (paragraphs 3.5.3-3.5.3) should remain, but with the addition of a note along the same lines as above. I so **Recommend**.
53. Policy SII firstly designates 26 LGS (some carried forward from the 2016 plan). I therefore address only those which are newly proposed. I find that with two exceptions I have no reason to doubt that these sites meet the NPPF criteria. However site 4 Southern Country Park (already Green Belt) comprises 23.6 hectares. I find that this is an “extensive tract of land” (NPPF 102c) and should be deleted. For the same reason, site 26 Fish Ponds (also Green Belt) should be deleted, and I so **Recommend**.
54. In relation to other green spaces (GIP2 c)) I have no reason to doubt the designation of these areas.
55. Section 3.2 addresses The Goods Yard. The contents of section 3.2 are, in practical terms, likely to be superseded as a result of the grant in July 2018 of planning permission for comprehensive redevelopment.
56. To ensure that the plan is up-to-date, after paragraph 3.2.1.2 I **Recommend** the addition of a new paragraph (with subsequent paragraphs re-numbered) as follows: *In July 2018 planning permission (in part outline, in part full) was granted for a major comprehensive mixed use scheme, including around 600 residential units. Development is under way on parts of the site. The remainder of this section was drafted at an earlier stage. Owing to a number of changes in circumstances, a revised Masterplan has been prepared, and*

*adopted by the DC in March 2022. The revised scheme will need to be the subject of further planning permission(s). It therefore makes sense for the time being for the contents of section 3.2 to be retained.*

57. I also **Recommend** that, since paragraph 3.2.3.6 is so out of date, it should be **deleted**.
58. Section 3.3 addresses Land South of Bishop’s Stortford. Contrary to national policy and guidance, much of policy BSS1 is unnecessary and repetitive. Any material change to the existing outline planning permission would require the approval of a revised Masterplan (and possibly environmental and transport assessments). The scope for “major change” to reserved matters is limited, since any further approval would still have to fall within the scope of the outline permission. I therefore **Recommend** the deletion of the existing text of Policy BSS1 and its replacement (as a modified Policy BSS1) with: *Any proposals for material changes to the outline planning permission (3/18/2253/OUT) for 608 homes (including parameter plans) will require the approval of a revised Masterplan and potentially an Environmental Impact Assessment (subject to confirmation of a Scoping Opinion) and transport assessment if relevant.*
59. To achieve the necessary clarity, I **Recommend** that paragraph e) of BSS2 should be deleted and replaced with: *Only development proposals that meet or exceed the energy efficiency requirement of District Plan policy DES4 (or any subsequent policy superseding it) will be supported.*
60. In view of the permitted status of development proposals, I have doubts as to the retention of BSS3-5. However, they would be relevant if revised proposals for the site were submitted (albeit this is unlikely). I therefore do not recommend deletion or amendment.
61. Section 3.4 deals with the Bishop’s Stortford High School site. It needs updating in the light of the resolution of the DC to grant outline planning permission for 223 houses. I therefore **Recommend** that paragraphs 3.4.1.1



and 3.4.1.2 be deleted and, as suggested in Representation ACST-011, replaced with: *3.4.1.1 The proposal for Bishop's Stortford High School to move received formal support from Hertfordshire County Council on 11 July 2016. The School is moving to a new site on the development at Bishop's Stortford South. Plans for development of the School site have now received a resolution to grant outline planning permission on 4 November 2020 for up to 223 dwellings under application reference: 3/18/2253/OUT.*

62. Policy BSHS1 a) would restrict new housing on the site to be no higher than two storeys. The report to the DC Committee on the above application has recognised the acceptability of partial three storey development. Therefore this paragraph is seen to be too prescriptive. In accordance with the suggestion in the above representation I **Recommend** that it be deleted and replaced by: *New housing should make the best possible use of available land whilst respecting the character of the area with styles and pallets to complement the local landscape and adjacent housing.*
63. I **Recommend** that paragraph b) of BSHS1 should be amended in the same terms as recommended in paragraph 59 above.
64. Policy BSHS2 b), first sentence, seeks to control land outside the control of the landowner and outside the site the subject of the resolution to grant. To ensure the policy is effective I **Recommend** that paragraph b) be deleted and replaced by: *Consideration must be given within the application area to enhancing connectivity at either end to exploit opportunities for developing the Spinney as a sustainable route from the southern edge of the town into the town centre.*

## **Part 2 of both Plans**

### **Climate Change**

65. The Objective of section 3.1 is *To enable Bishop's Stortford to make a significant contribution to reducing climate change and to respond to East Herts District Council's commitment to support the whole of the District in becoming carbon neutral by 2030.*
66. Paragraph 3.1.2.2 indicates that the proposed policies look forward to an intention by the DC to adopt ambitious Climate Change policies.
67. Paragraph 3.1.2.3 sets out the ambitious to plan for zero carbon emissions from new development. This is embodied in proposed policy CC1.
68. On this topic, I am persuaded by much of the content of representation SM-007 (Countryside). It points out that the NPPF repeatedly refers to the planning system supporting a "low" carbon future and moving towards a "low" carbon economy, including at paragraphs 8, 152, 156 and 158. It refers to the fact that the proposed policy has not been subject to a strategic viability assessment.
69. It also refers to the strategic policies set out in the DP, which also refers to "low" carbon in its Strategic Objectives on page 19 and in Policies CC3 and DEL2.
70. I agree with these representations. I therefore **Recommend** that the reference in paragraph 3.1.2.3 to "zero" carbon emissions be replaced with "low" carbon emissions, and that the text after the first sentence be deleted. I further **Recommend** that policy CC1 a) be deleted and replaced by: *Every development should contribute to reducing or lowering greenhouse emissions in use. Encouragement will be given to proposals which go further and contribute no greenhouse emissions (net zero carbon).*

71. I **Recommend** that paragraph 3.1.2.4 be accordingly deleted, save for the last sentence.
72. The above modifications are required to pay due regard to national policy, to be in conformity with relevant strategic policies of the DP, and in the interests of sustainable development.
73. Policy HDP4 relates to Dwelling Mix Strategy. It repeats references to “major development schemes”. I **Recommend** that these references be deleted and that an introductory paragraph within the policy states: *This policy applies to residential development comprising major development (see Glossary).*
74. In relation to sub-paragraph c) of the policy, and in agreement with Representation SM-008, I find this requirement contrary to national policy and guidance in relation to seeking increased densities, and in relation to the role of viability. I **Recommend** that the second sentence be deleted and replaced by: *Subject to viability, and the achievement of appropriate density across the whole scheme, an element of bungalow development will be encouraged.*
75. Consistently with the above, and to ensure that the plan is firmly evidenced, I **Recommend** the deletion of paragraph 3.2.4.10.
76. Policy GIP2 deals with Local Green Spaces and other green areas. Sub-paragraph a) proposes policy in relation to LGS, reflecting that in the DP. However, the question of appropriate LGS policy is now subject to the guidance of the Court of Appeal in R (Lochailort) v Mendip DC [2020] EWCA Civ. 1259 (to the effect that, unless exceptional reasons are given, LGS policy should be consistent with NPPF policy). This judgment of course post-dates the LGS policy in the DP. I therefore **Recommend** that the last sentence of sub-paragraph a) be deleted and replaced with the policy in paragraph 103 of the NPPF: *Policies for managing development within a Local Green Space should be consistent with those for Green Belts.*

77. Section 3.4.5 addresses the Objective to protect and enhance wildlife and biodiversity. Matters have moved on since this section was drafted, in that the Environment Bill has now been enacted as the Environment Act 2021. I **Recommend** that all references to the Bill be updated accordingly. Based in part on the reference in paragraph 3.4.5.4 to Hertfordshire County Council’s aim to improve biodiversity on County Council land by 20% by 2030, this section of the plan incorporates that objective. Policy GIP5 e) - g) seek to justify a minimum net gain of 20%. I find that this aim is not justified by current national policy as – so far – reflected in the Environment Act 2021. DEFRA is currently consulting on a proposal for net gain of at least 10%. When relevant policy is issued, it will plainly be an important material consideration. Meanwhile, however, I **Recommend** the following modifications to GIP5 e) – h):

Sub-paragraph e) should be deleted

Sub-paragraph f) should be amended as follows: *Assessment of biodiversity gain shall be in accordance with the Environment Act 2021.*

In sub-paragraph g) delete “In the case of e) or f) above”, and insert 10% in place of 20%.

In sub-paragraph h) replace “20%” with “10%”.

78. The subject of allotments is addressed in section 3.4.7. On this topic, I am persuaded by the points made in Representation SM-007 (Countryside). I agree that the text and sub-paragraph e) of policy GIP7 are unduly onerous. I therefore **Recommend** that the last two sentences of paragraph 3.4.7.4 be deleted and replaced by: *To address this issue, policy GIP7 is amended to require allotments to be provided on sites for development of 350 homes or greater. At the land provision rate of 0.24 ha per 1,000 population stipulated, the smallest allotment site would be approximately 0.2 ha.* I further

**Recommend** that the two references in sub-paragraph b) of the policy to “200” be replaced with “350”.

79. Section 3.5 addresses in detail the topic of Transport. I have nothing but praise for the approach set out in the text and the policies. I do not share the views of Hertfordshire County Council as highway authority that there is not an appropriate balance between concerns over congestion, and the objectives for sustainable modes of transport.
80. There is a minor updating matter to address. The DC adopted a Sustainability Supplementary Planning Document (SDP) in March 2021. The text in paragraphs 3.5.3.14, 3.5.3.15 and 3.5.3.16 should be **updated** accordingly.
81. Policy TP1 b) would require traffic surveys “no more than 2 years old”. I find that this is somewhat onerous and out of line with normal practice and **Recommend** that a period of 3 years be substituted.
82. Paragraph 3.5.5.5 refers to an updated version of the Vehicle Parking SPD. To reflect the current position, the relevant text should refer to the fact that the preparation of a successor document is in progress.
83. The topic of Education is addressed in section 3.6. Paragraphs 3.6.3.1 – 3.6.3.3 inappropriately seek to direct an LEA how to carry out its function, which is not appropriate for a Neighbourhood Plan. I therefore **Recommend**:
- That the last phrase in paragraph 3.6.3.1 “and these must be made available in a timely fashion” be deleted.
- Paragraph 3.6.3.2 be deleted.
- That the first sentence of paragraph 3.6.3.3 be deleted.
84. Generally on this topic I am persuaded by representation SM-008 (page 4). I **Recommend** that policy EP1 should be deleted, and more positively worded

in these terms: *Development will be permitted if sufficient local primary school places exist or are made available for all additional children arising from a development and adequate secondary school places exist or are made available in Bishop's Stortford in schools that are reasonably accessible from the proposed development location or the developer makes contributions (whether financial or otherwise) requested by the Education Authority, to enable any shortfall in provision caused by the development to be addressed.*

**Conclusion**

85. I conclude that the Plans are of a very high standard, due to the careful work which has gone into their preparation and consultation. I have recommended a limited number of modifications to ensure compliance with the Basic Conditions. I **Recommend** that, subject to those modifications, the DC makes the two Plans.
86. Where this Report requires re-numbering of paragraphs or policies (or minor factual or textual changes are required), I assume that such changes are incidental to the recommendations made above.

**Christopher Lockhart-Mummery QC**

**Examiner**

**May 2022**