

# **Milton Neighbourhood Development Plan**

## **Submission Version 2021 – 2036**

**Report of Examination**

**April 2022**

**Undertaken for Portsmouth City Council with the support of Milton Neighbourhood Forum on the submission version of the plan.**



**Independent Examiner:**

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### **Abbreviations used in the text of this report:**

The Milton Neighbourhood Development Plan is referred to as ‘the Plan’ or ‘MNDP’.

Milton Neighbourhood Planning Forum is abbreviated to ‘the Forum’ and is the ‘Qualifying Body’.

Portsmouth City Council is abbreviated to ‘PCC’ and as the Local Planning Authority ‘LPA’.

The National Planning Policy Framework is abbreviated to ‘NPPF’.

The National Planning Practice Guidance is abbreviated to ‘NPPG’.

The Portsmouth Local Plan 2012 is abbreviated to ‘PLP2012’.

The Portsmouth City Local Plan 2006 (saved policies) is abbreviated to ‘PCLP2006’.

The Draft Local Plan 2038 is abbreviated to ‘DLP2038’.

Regulations 14 and 16 are abbreviated to ‘Reg14’ and ‘Reg16’ respectively.

Local Green Space is abbreviated to ‘LGS’.

Habitats Regulation Assessment is abbreviated to ‘HRA’.

Strategic Environmental Assessment is abbreviated to ‘SEA’.

## Summary

- I have undertaken the examination of the Milton Neighbourhood Development Plan (MNDP) during February – April 2022 and detail the results of that examination in this report.
- The Neighbourhood Forum have undertaken extensive consultation on this Plan, and it complies with legislative requirements. The Plan is a considered response to development opportunities and challenges in Milton. The Portsmouth development plan offers a strategic policy framework, and the Local Plan Review an indication of future thinking.
- I have considered the comments made at the Regulation 16 Publicity Stage, and where relevant these have to an extent informed some of the recommended modifications. A hearing was held to properly investigate some confusion around Local Green Space issues. All participants to the well-attended hearing offered helpful suggestions and information that helped me address the issue in this report.
- Subject to the modifications recommended, the Plan meets the basic conditions and may proceed to referendum.
- I recommend the referendum boundary is the designated neighbourhood plan area.

**Acknowledgements:** Thanks to Local Authority and qualifying body staff for their assistance with this examination and hearing. My compliments to the local community volunteers and Milton Neighbourhood Forum, who have produced a well-evidenced and focused Plan.

# 1. Introduction and Background

## 1.1 Neighbourhood Development Plans

1.1.1 The Localism Act 2011 empowered local communities to develop planning policy for their area by drawing up neighbourhood plans. For the first time, a community-led plan that is successful at referendum becomes part of the statutory development plan for their planning authority.

1.1.2 Giving communities greater control over planning policy in this way is intended to encourage positive planning for sustainable development. The National Planning Policy Framework (NPPF para 29) states that:

“neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood Plans can ... help to deliver sustainable development”.

Further advice on the preparation of neighbourhood plans is contained in the Government’s Planning Practice Guidance website:

<http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/>

1.1.3 Neighbourhood plans can only be prepared by a ‘qualifying body’, and in Milton that is the Milton Neighbourhood Planning Forum. Drawing up the Neighbourhood Plan was undertaken by the Forum, with organisation undertaken by a committee set up under a constitution approved by the LPA.

## 1.2 Independent Examination

1.2.1 Once the Forum had prepared their neighbourhood plan and consulted on it, they submitted it to Portsmouth Council (PCC). After publicising the plan with a further opportunity for comment, PCC were required to appoint an Independent Examiner, with the agreement of the Forum to that appointment.

1.2.2 I have been appointed to be the Independent Examiner for this Plan. I am a chartered Town Planner with over thirty years of local authority and voluntary sector planning experience in development management, planning policy and project management. I have been working with communities for many years, and have recently concentrated on supporting groups producing neighbourhood plans. I have been appointed through the Neighbourhood Plan Independent Examiners Referral Service (NPIERS). I am independent of any local connections to Milton and PCC, and have no conflict of interest that would exclude me from examining this plan.

1.2.3 As the Independent Examiner I am required to produce this report and recommend either:

- (a) That the neighbourhood plan is submitted to a referendum without changes; or
- (b) That modifications are made and that the modified neighbourhood plan is submitted to a referendum; or
- (c) That the neighbourhood plan does not proceed to a referendum on the basis that it does not meet the necessary legal requirements.

1.2.4 The legal requirements are firstly that the Plan meets the 'Basic Conditions', which I consider in sections 3 and 4 below. The Plan also needs to meet the following requirements under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990:

- It has been prepared and submitted for examination by a qualifying body;
- It has been prepared for an area that has been properly designated by the Local Planning Authority;
- It specifies the period during which it has effect;
- It does not include provisions and policies for excluded development;
- It does not relate to land outside the designated neighbourhood area.

The Milton Neighbourhood Development Plan (MNDP) has been submitted and prepared by a qualifying body and people working to that qualifying body. The Neighbourhood Area was designated on the 23<sup>rd</sup> June 2015 by PCC, with the Forum designated at the same time. The Forum designation was renewed after five years, as required. The Plan does not include policies about excluded development; effectively mineral and waste development or strategic infrastructure. However the Plan as submitted does not clearly specify the period during which it has effect. Remedying this is dealt with in Modification 1, and with this recommended change the Milton Neighbourhood Development Plan will comply with the requirements of Paragraph 8(1). The plan does not relate to land outside the designated Neighbourhood Area.

1.2.5 I made an unaccompanied site visit to Milton to familiarise myself with the area and visit relevant sites and areas affected by the policies. This examination has been dealt with by written representations and a hearing. The latter was needed to allow me to examine effectively issues relating to the designation of Local Green Spaces.

1.2.6 I am also required to consider whether the referendum boundary should be extended beyond the designated area, should the Plan proceed to a referendum. I make my recommendation on this in section 5 at the end of this report.

## **1.3 Planning Policy Context**

1.3.1 The Development Plan for Milton and Portsmouth, not including documents relating to excluded mineral and waste development, is the Portsmouth Local Plan adopted 2012 (PLP2012), and saved policies from the Portsmouth City Local Plan adopted 2006 (CPLP2006). A Local Plan Review is underway (DLP2038), with a Reg18 consultation on the draft Local Plan undertaken at the end of 2021. The DLP2038 is not included in the development plan as yet, and there is no legal requirement for policies within the MNDP to be in general compliance with emerging policies in the DLP2038. There is guidance (NPPG ID:41-01—20140306) advising that emerging policy should be taken into account when preparing a neighbourhood plan. The PLP2012 is a Core Strategy, and all policies are strategic. The saved policies from the 2006 plan are not considered strategic by the LPA.

1.3.2 The National Planning Policy Framework 2021 (NPPF) sets out government planning policy for England, and the National Planning Practice Guidance (NPPG) website offers guidance on how this policy should be implemented.

1.3.3 During my examination of the MNDP I have considered the following documents:

- National Planning Policy Framework (NPPF) 2021
- National Planning Practice Guidance 2014 and as updated
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004
- The Localism Act 2011
- The Neighbourhood Planning Regulations 2012 (as amended)
- Submission version of the Milton Neighbourhood Development Plan (MNDP)
- The Basic Conditions Statement submitted with the MNDP
- The Consultation Statement submitted with the MNDP
- The SEA Environmental Report for the MNDP
- The HRA Assessment Report for the MNDP
- Neighbourhood Area Map – Proposals Map MNDP
- Evidence Annex MNDP and Local Green Spaces Map
- Portsmouth Local Plan: Adopted January 2012
- Portsmouth City Local Plan 2006 – saved policies
- Draft Portsmouth Local Plan to 2038
- Whitfield, D (2020) Solent Waders and Brent Goose Strategy 2020 Hampshire and IoW WT.
- Statement by Hampshire and Isle of Wight Wildlife Trust 6<sup>th</sup> April 2022
- Representations received during the publicity period (reg16 consultation)

## 2. Plan Preparation and Consultation

### 2.1 Pre-submission Process and Consultation

2.1.1 The Milton Neighbourhood area mainly includes the ward of Milton. It is a suburb of Portsmouth, on the SE corner of the island of Portsea. It is bounded by the Solent to the South, and Langstone Harbour, a Special Protection Area (SPA) to the east. The area is mainly residential, with the university site and other minor industry and retail offering some employment options. A large former hospital site is being progressively developed mainly for housing.

2.1.2 Portsmouth City Council (PCC) is a unitary authority, and an application from local residents for designation of Milton as a neighbourhood planning forum was made to PCC on the 30<sup>th</sup> March 2015 and approved by PCC on the 23<sup>rd</sup> June 2015. The forum designation was renewed on the 27<sup>th</sup> August 2020, as required by section 61f of the Town and Country Planning Act 1990. The neighbourhood area designation was approved at the same time as the Milton Neighbourhood Forum, and unlike the forum designation does not expire after 5 years.

2.1.3 The Forum developed from a Neighbourhood Forum that had been meeting for 15 years. A constitution was agreed and application made for designation as a Neighbourhood Planning Forum, which was agreed by the LPA. The first task of the Forum was to undertake surveys of residents and local businesses, responses being gathered in hard copy and online. There were 559 responses from residents, 18 from local businesses. An Open Day was organised in April 2016, at which residents and statutory consultees and stakeholders were represented. The Open Day offered ideas for policies and gathered views from attendees on what the Plan should address and how. The Open Day was repeated in 2017 and 2018 as it had proved an effective communication and feedback tool.

2.1.4 The Consultation Statement sets out the nature and form of consultation prior to the formal Reg14 six week consultation. Minutes of the committee meetings were available online. Continuous dialogue took place with local landowners including Portsmouth University, NHS Property Services and Homes England. Regular updates were given in a local free magazine delivered to all homes in the Plan area. An evening open forum for the public was held every quarter, and a use was made of a local Facebook page for consultation that had 11,000 members as at June 2021.

2.1.5 As required by regulation 14 of the Neighbourhood Planning Regulations 2012, the formal consultation for six weeks on the pre-submission draft MNDP ran from the 3<sup>rd</sup> April 2019 to the 17<sup>th</sup>

May 2019. It was advertised on the MNDP website and Facebook, and via notices on lampposts. Paper copies were available to view at several local venues with response forms, and the draft Plan was available to view online. Statutory Consultees were contacted by email on the 3<sup>rd</sup> April 2019.

2.1.6 Representations were received from 13 residents and 6 statutory bodies and developers including the LPA, during the Reg14 consultation period. Several amendments have been made to the Plan as a result of constructive suggestions for changes. I am satisfied that due process has been followed during the consultation undertaken on the Plan. The Consultation Statement details all consultation activities, and the record of comments and objections received during the regulation 14 consultation shows that these were properly considered, and where appropriate resulted in amendments to the plan to accommodate points raised.

2.1.7 As required, the amended plan, together with a Basic Conditions Statement, a Consultation Statement, An Environmental Report and Habitats Assessment and a plan showing the neighbourhood area was submitted to PCC on the 27<sup>th</sup> July 2021.

## **2.2 Regulation 16 Consultation Responses**

2.2.1 PCC undertook the Reg 16 consultation and publicity on the MNDP for six weeks, from the 6<sup>th</sup> September 2021 to the 18<sup>th</sup> October 2021. 15 Representations were received during this consultation, 8 from residents and 7 from statutory bodies including the Public Health section of PCC. Issues they raise that are pertinent to my consideration of whether the Plan meets the basic conditions are considered in sections 3 and 4 of this report below.

2.2.2 I am specifically limited by legislation to correcting with recommended modifications the Plan's compliance with the Basic Conditions and other legal requirements. Comments in the Reg16 responses suggesting significant additions, such as new sites, are not something this examination is authorised to consider. Notification of minor corrections needed to the text are very useful, but again cannot be the subject of any modifications I recommend. The LPA will be aware however that it is authorised to correct minor errors that may have been missed so far [Town and Country Planning Act 1990 Schedule 4B section 12(6)]. I will also expect this power to be used to correct those parts of the text that need to reflect changes recommended in my modifications.



### 3. Compliance with the Basic Conditions Part 1

3.1 General legislative requirements of the 1990 Town and Country Planning Act (TCPA) other than the Basic Conditions are set out in paragraph 1.2.4 above. The same section of this report considers that the MNDP will have complied with these requirements with the recommended Modification 1. What this examination must now consider is whether the Plan complies with the Basic Conditions, which state it must:

- Have regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan for the area;
- Be compatible with and not breach European Union (EU) obligations and comply with human rights law; and
- Not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017 (*prescribed basic condition since December 2018*).

3.2 The Basic Conditions Statement (page 6) explains how the Plan promotes the social, economic and environmental goals of sustainable development. I accept that the Plan does contribute to sustainable development in line with the Basic Conditions with the alterations proposed in Modification 9.

3.3 An Environmental Report and HRA Report have been submitted with the MNDP as both Strategic Environmental Assessment (SEA) and an appropriate assessment under the Habitats Regulations were required for the Plan. Milton borders Langstone Harbour SSSI, which is also part of a Special Area of Conservation (SAC), a Ramsar site and a Special Protection Area (SPA). The Environmental Report states that as the MNDP does not allocate any sites for development it is unlikely to have any significant negative effects on the environment. There are some positive impacts likely.

3.4 The HRA Report has considered the site allocations and policies for likely significant effect on the European sites, and found that policies EER1; STJ1 and LAN1 had potential impacts. Recommendations were made for safeguarding policy wording for these and other policies (ENV2; ENV3). These recommendations have not been fully implemented. Where I consider that they

should be, in order that the MNDP complies with the Basic Conditions and has due regard to EU obligations, I have dealt with this in my report with the recommended modifications for Policies ENV2, STJ1 and LAN1.

3.5 The MNDP in my view complies with Human Rights Legislation. It has not been challenged with regard to this, and the consultation statement showed that the need to consult with a wide cross-section of the community and stakeholders was appreciated. An Equalities Assessment was also undertaken that indicated the Plan would have positive impacts for people with protected characteristics.

## 4. Compliance with the Basic Conditions Part 2: National Policy and the Development Plan

4.1 The final and most complex aspect of the Basic Conditions to consider is whether the MNDP meets the requirements as regards national policy and the development plan. This means firstly that the Plan must have regard to national policy and guidance, which for this neighbourhood plan is the NPPF 2021 and the NPPG. Secondly the Plan must be in general conformity with the strategic policies of the development plan. The phrase 'general conformity' allows for some flexibility. If I determine that the Plan as submitted does not comply with the Basic Conditions, I may recommend modifications that would rectify the non-compliance.

4.2 The Plan and its policies are considered below in terms of whether they comply with the Basic Conditions as regards national policy and the development plan. If not, then modifications required to bring the plan into conformity are recommended.

Modifications are boxed in this report, with text to *remain in italics*, new text **highlighted in Bold** and text to be deleted ~~shown but struck through~~. Instructions for alterations are underlined.

4.3 The MNDP has included a separate evidence document, with the policies set out in a document with justification included for each one. The policies are clearly delineated, although they sometimes read across pages, which is not ideal. As stated in paragraph 1.2.4 above, the Plan does not clearly specify the period during which it has effect as 2021 – 2036. There is a reference to a finish date in the MNDP (page 4) of 2036, and the Plan is stated to cover a 15 year period on the Foreward of the previous page and in the Evidence Document. That this is stated clearly is a legal requirement, and thus in order that the MNDP meets legal requirements and the Basic Conditions, I recommend it is amended as set out in Modification 1.

**Modification 1:** The Cover Page of the MNDP to state clearly that the period the Plan has effect from 2021 – 2036.

4.4 **Policy COM1: Safeguarding Community Facilities** The accompanying text includes a list of community facilities, and in order to make the policy clear to a decision-maker, as required by the NPPF (para 16d), this should be included within the policy. The list includes an allotment area, which

is also proposed for protection as a Local Green Space (LGS 11), and inclusion within this policy as well will provide an internal contradiction in the Plan, and the level of protection is not the same. This also applies to the Bowling Club at Milton Park. The Bransburn Park amenities are also included within LGS 5 now, (para 4.13.5 of this report and Modification 7) and so they should be excluded from the list of community facilities to be protected by this policy as well. In order that Policy COM1 complies with the Basic Conditions and has due regard to national policy, I recommend it is amended as shown in modification 2.

**Modification2:** Policy COM1 to be amended as follows:

1. *Proposals involving the loss of local community facilities will only be supported where:*

- *a similar or better facility is provided in close proximity ; or*
- *it can be demonstrated that the community use is no longer viable*

**2. Development of new Community Facilities will be encouraged. Existing community facilities include the following:**

- **Beddow Library**
- **Eastney Community Centre and Community café**
- **Gisors Road ‘ Walled Garden’**
- **Langstone Church and Hall with Nursery**
- **Meon Middle & Infants School with Nursery**
- **Milton Park Middle & Infants School with Nursery**

~~Milton Piece Allotments~~

- **Milton Village Hall and Pure Ground Community café**
- **Moorings Way Primary School**
- **St James Church (C of E) and Hall**
- **The Barn in Milton Park**
- **United Reform Church and Hall with Nursery**
- ~~Brandsbury Park Amenities~~
- **Wind in the Willows Nursery**
- ~~Milton Park Bowling Club and Green~~

**4.5 Policy COM2: New Community Facilities** The policy implies that it deals with all community facilities, although in fact it is only concerned with development at public houses. The addition to policy COM1 recommended in modification 2 above deals with the general case. To ensure that Policy COM2 is clear about what development is intended to be covered, I recommend that the title is amended as shown in Modification 3 so that the Policy has paid due regard to national policy and complies with the Basic Conditions.

**Modification 3:** The title of Policy COM2 to be amended to read “Development at Public Houses”.

**4.6 Policy HSG1: Housing Mix** The policy has been criticised for being too prescriptive at bullet point 4 of the first paragraph. The NPPG does require that plans should be prepared positively and be deliverable (ID:41-005-20190509). I consider bullet point 4 to be too prescriptive, and not always appropriate. Bullet point 3 requires accommodation be provided for the elderly and disabled, but there is no mention elsewhere of single person flats. The wording of the first paragraph to be positive and flexible should not suggest that all of the options are always to be provided. In order that Policy HSG1 meets the Basic Conditions and has due regard to national policy and guidance, I recommend it is amended as shown in Modification 4.

**Modification 4:** Policy HSG1 to be amended as follows:

*1. Residential development must include a balanced mix of house types to meet documented local need. The mix of housing is encouraged to ~~should~~ include:*

- *3 bed, family houses suitable for local families to move into;*
- *1 and 2 bed homes suitable for first-time buyers and those wishing to downsize;*
- *accommodation suitable for the elderly, vulnerable or disabled persons;*
- ~~*mixed purpose elderly or accommodation for single people. person ground floor flats with 2 or 3 bedroom maisonettes above.*~~

*2. Particular support will be given to self-build or community-led housing schemes.*

4.7 **Policy HSG2: Housing Standards** Complies with the Basic Conditions.

4.8 **Policy EER1: Warren Avenue and Mallard Road Industrial Estate** The second paragraph of this policy needs to be worded differently in order to not pre-empt decisions on planning permissions and their conditions. In order that Policy EER1 meets the Basic Conditions in that it has due regard to national policy (NPPF para56) and does not pre-empt planning decisions on what conditions may be necessary, I recommend it is amended as shown in Modification 5.

**Modification 5:** The second paragraph of Policy EER1 to be amended as follows:

.... 2. **Development for Commercial and light industrial uses falling into Use Class E at the Warren Avenue and Mallard Road Industrial Estate will not normally be permitted to include retail use.** ~~should be conditioned to prevent retail use outside of existing centres. ....~~

4.9 **Policy EER2: Employment** Complies with the Basic Conditions.

4.10 **Policy EER3: Eastney Road Retail and Commercial Area** Complies with the Basic Conditions.

4.11 **Policy EER4: Connectivity** Complies with the Basic Conditions.

4.12 **Policy PLD1: Sustainable Design** Paragraph 4 of Policy PLD1 has been criticised as being too inflexible, and I agree that it will not always be reasonable to require a hard surface to be permeable. The NPPG requires that plans should be prepared positively and be deliverable (ID:41-005-20190509), and the requirement for hard surfaces to always be permeable is likely to not be

deliverable. In order that Policy PLD1 has due regard to national policy and guidance, and thus complies with the Basic Conditions, I recommend that it is amended as shown in Modification 6.

**Modification 6:** The fourth paragraph of Policy PLD1 to be amended as follows:

.... 4. *Development must have no adverse impact on surrounding land or properties from surface water run-off. **Wherever possible, hard surfaces must be permeable and sustainable urban drainage systems should be used** ~~where possible.~~ .....*

**4.13 Policy ENV1: Local Green Space** The policy designates twelve Local Green Spaces (LGS), shown on a separate 'Green Spaces Map'. There were problems of clarity with this map however, including the exact boundaries of LGS proposals and designations in the legend. Additionally some LGS sites, or part of them, were proposed for possible development. This is contrary to the requirement in the NPPF (para 101) that an LGS is special and its designation is capable of enduring beyond the plan period, and thus does not comply with the Basic Conditions. Objections at Reg16 stage had been the subject of further negotiation after that consultation had finished. I therefore called a hearing to consider additional evidence to clarify points at issue.

4.13.1 Two of the proposed designations are on sites that I do not consider have qualities that are intrinsically special enough to warrant designation as an LGS. They are LGS 10; Land between Broom Square and Longshore Way and LGS 12; Land at Kingsley Road. The Milton Locks site was shown on the Green Space Map as a green space, but not specifically identified as a LGS. The Forum stated at the hearing that this was on oversight, and the owner of the site, PCC, and the Local Wildlife Trust who manage it, both agreed that it should be designated. I therefore accept that for ecological reasons, as set out by the Wildlife Trust in their statement of the 6<sup>th</sup> April 2022, it should be designated in this Plan as an LGS, and an entry justifying this be added to the Evidence Base (page34-35). As the evidence base does not include justifications for LGS 10 and LGS 12, no alteration with regard to these proposals no longer being designated is needed.

4.13.2 The boundary for **LGS 1, St James' Green**, was not clear, as a submission at Reg16 commented. A designation on the 'Green Spaces Map' showed a part of the area the Forum wanted to designate as 'Proposed Publicly Accessible Open Space'. This designation in a planning policy is not acceptable, as ownership and public access rights are not directly a land-use issue. The NPPG

requires policies in neighbourhood plans to deal with land-use issues only (ID: 41-004-20190509). Where LGS 1 is concerned, the area identified for being publicly accessible is proposed by the owner in a current planning application to have some residential development on it. As this part of the proposed site was not handed over to the LPA for public open space when the rest of the site was, and is clearly marked off and not publicly accessible at present, I do not accept that it should be included in the designation.

**4.13.3 Site LGS 2 – Portsmouth and Southsea Cricket Club Ground** – also had a lack of clarity in the exact designation boundary on the Green Spaces Map. The Forum indicated that it was intended to include a narrow tree belt just to the west of the cricket ground, also designated in the Green Spaces Map as open space to be publicly accessible. This had been disputed by the owner in Reg16 submissions, although the designation of the cricket ground was not. The tree belt is shown on the current planning application as open space, and is a useful landscaping frame to the cricket pitch and its access lane. It is also a useful physical and visual buffer between the ground and housing on Mayles Road which backs onto the cricket ground site. I accept that this part of the site should be included within the LGS designation and is a legitimate part of the cricket ground.

**4.13.4 LGS 3, St James' Hospital Grounds East**, is designated as LGS and publicly accessible open space in the Green Spaces Map, a designation objected to by the owner of the site. Negotiations with the LPA and Forum has reached a compromise that the site be designated as 'Greenspace/Healthcare use' – allowing for potential development of all or part of the site if required for healthcare related development. Neither of these proposed designations is compatible with LGS designation for the reasons given above in para 4.13 of this report. At the hearing it was generally accepted that the western strip of the site proposed for LGS designation has a heritage importance as open space in relation to the setting of the listed chapel and hospital building. A belt of mature trees indicates this particularly sensitive area of the site. I accept the revised designation of the site as being open space available for healthcare related development to the east of this belt of trees therefore, but not the western strip to the west of the belt of trees. This should remain designated as open space. I cannot see that it is currently of a quality to justify designation as a LGS, but its potential heritage value as setting for listed buildings should be protected from an indication that it is available for development in this Plan.



4.13.5 **LGS 5 Bransbury Park** had an area shown as excluded from designation in the Green Spaces Map. It is currently a multi-use games area, but as the Forum stated, and the LPA agreed, this is also part of the recreational use of the wider park and should therefore be included within the designation of the LGS. PCC do have plans to develop this part of the site for a built leisure centre, but I consider that were this to happen it would also augment the use of the site for recreation and be consistent with 'very special circumstances' for development on an LGS. I agree therefore that for consistency the boundary of LGS 5 should include the whole of Bransbury Park.

4.13.6 **LGS 8, Furze Lane Sports-Fields**, as currently designated was also partly offered for development with the proviso that any development should be part of a land swap arrangement. As discussed above, it is not possible for land designated as an LGS to be also offered for development. The hearing heard that the LPA, the Forum and the University as owners of the site all accepted the principle of a land swap. The hearing also considered Policy LAN1, which has misrepresented the intentions of the Forum with regard to possible development and land swap arrangements. It was agreed that the northern section of the current designation of LGS 8 would be retained, and the southern section that had been indicated as a potential development site, would be removed from the designation. A revised policy LAN1 was circulated to interested parties immediately after the hearing for comment. Recommendations regarding alterations to this policy are dealt with in Modification 11 below.

4.13.7 **Eastney and Milton Allotments**. The designation of the allotments is agreed, but the Green Spaces Map needs to show them clearly as designated with the boundary determined by the allotment shading area.

4.13.8 There is a general requirement that development on LGS should comply with Green Belt restrictions generally (NPPF para 103). The wording of points 2 – 4 in the policy could result in this national policy requirement being met. The use of the phrase 'very special circumstances' is consistent with allowable development in Green Belt policy, and I consider the policy should replace points 2 -4 with this phrase.

4.13.9 In order that the Green Space Map and Policy ENV 1 have due regard to guidance in the NPPG and national policy in the NPPF, and therefore comply with the Basic Conditions, I recommend they are amended as shown in Modification 7 below.

**Modification 7:** Policy ENV1 to read as follows:

**The following spaces are designated as Local Green Space:**

**LGS1 - St James' Green**

**LGS2 - Portsmouth and Southsea Cricket Club Ground**

~~LGS3 - St James' Hospital Grounds East~~ Milton Locks

**LGS4 - Milton Park**

**LGS5 - Bransbury Park**

**LGS6 - Milton Common**

**LGS7 - Edenbridge Park**

**LGS8 - Furze Lane Sports-Fields**

**LGS9 - Langstone Campus Fields**

~~LGS10 - Land between Broom Square and Longshore Way~~

~~LGS11~~ **10 - Eastney & Milton Allotments**

~~LGS12 - Land at Kingsley Road~~

**Development on Local Green Space will only be allowed in very special circumstances.**

**Land between Broom Square and Longshore Way, the western section of St James' Hospital Grounds East and Land at Kingsley Road are designated as Open Space.**

The Green Spaces Map to be amended as follows:

A separate site colour be allocated for LGS designations in the legend and used for each site as indicated in this report.

LGS 1 to not include the crossed-hatched portion of the hospital site to the north.

LGS2 to include the tree band to the west of the cricket ground shown cross-hatched.

The former LGS 3 St James' hospital grounds east be designated with a separate 'Open Space' site colour in the legend to the west of the tree belt on site. To the east of the site the designation to be shown hatched and indicated on the legend that it is 'open space available for health-related development'.

LGS 5 Bransbury Park to include the former community leisure facilities to the west of the Park within the LGS designation.

LGS 8 to exclude the potential development site B and be revised as shown in Modification 11. This excluded land to be designated as 'open space: may be available for development complying with Policy LAN1'.

The designation 'Proposed publicly accessible open space' to be removed, and the former LGS 10 and LGS 12 to be re-designated as 'Open Space'.

The Milton Locks site to be designated as LGS 3.

**4.14 Policy ENV2: Green Environment and Biodiversity** The policy is offering protection to green environment in the neighbourhood area, and identifies the national and internationally designated sites. The policy needs to allow for the hierarchy of protection as set out in the NPPF (para 175), and the caveat in bullet 3 specifying only some circumstances where nationally protected sites will be protected is not therefore acceptable. The general protection for all green spaces in bullet 1 needs to allow for some flexibility in order that sites of local importance are not offered similar protection to nationally designated sites. The correct phrase for protection of the natural environment is that it should be protected and enhanced (eg NPPF para 174).

4.14.1 The HRA report undertaken on the MNDP (page 42) recommended that the policy should include wording about avoiding adverse recreational impact, and also (page 40) that the sensitivity of the water within nationally designated sites needed to be recognised. In order that Policy ENV2 has paid due regard to national policy, and complies with EU obligations, and thus meets the requirements of the Basic Conditions, I recommend it is amended as shown in Modification 8 below.

**Modification 8:** Policy ENV2 to be amended as follows:

1. ~~Development should wherever possible~~ **must protect and enhance** ~~or have no adverse impact on Milton's local green environment including wildlife habitats and corridors, green spaces, trees and woodland spaces.~~
2. *Development must achieve biodiversity net gain.*
3. *Development affecting national and european designated environmental areas and landscapes and their setting must protect and enhance and cause no harm to the characteristics underpinning the designation them. Designated landscape include:*
  - *Chichester and Langstone Harbours Special Protection Area /Ramsar;*
  - *Solent Maritime SAC;*
  - *Solent and Dorset Coast Special Protection Area*
  - *Portsmouth Harbour Special Protection Area /Ramsar.*
4. *Landscaping schemes for development proposals should utilise native species.*
5. *Existing landscape features including trees and hedges should be retained and incorporated into the design, layout and landscaping of development schemes. Where loss of trees or hedges is unavoidable, replacement trees or hedges of native species should be provided, to create an equal level of amenity.*
6. **Development proposals should ensure recreational opportunities do not result in adverse effects of integrity to European designated wildlife sites. Water pollution is a particular concern as an adverse effect in this regard.**

4.15 **Policy Heritage Assets MH1** Complies with the Basic Conditions.

4.16 **Policy TSP1: Highway Capacity and Impacts** Complies with the Basic Conditions.

4.17 **Policy TSP2: Balanced Transport Provision** Complies with the Basic Conditions.

**4.18 Policy TSP 3: Footpaths and Cycling Routes** Criteria 1 of this policy has been criticised for being too inflexible. I accept that sustainable development is often possible with acceptable alteration to the routes of footpaths and cycle routes, and that the current policy is too restrictive and may hinder otherwise sustainable development. In order that Policy TSP3 promotes sustainable development and thus complies with the Basic Conditions, I recommend it is amended as shown in Modification 9.

**Modification 9:** Criteria 1 of Policy TSP 3 to be amended as follows:

1. *Development should not result in an adverse impact on footpaths or cycle routes, and any proposed alterations to them should not result in any reduction in setting, safety, amenity or accessibility.*

....

**4.19 Policy STJ1: St James' Hospital Site** The policy deals with the on-going development of a large former hospital site in the middle of the neighbourhood area. The hospital building is listed, and residential development and some health-related development has already taken place on the site. Several responses were received during the Reg16 consultation from developers and owners of the site objecting to aspects of the policy's requirements.

4.19.1 Criteria 4 of this policy is not dealing with land-use issues, and as required by government guidance (ID: 41-004-20190509), and cannot therefore form part of the policy requirements. Criteria 3 needs to acknowledge that the design guidance in the Plan is not a policy requirement, but guidance that development should pay due regard to. Comments at Reg16 pointed out that it has not been consulted on with all stakeholders, and the NPPF (paras 126-8) emphasises that this should occur. It is legitimate for the community to set out their view of good design and development principles, but the Plan also needs to be viable and deliverable (NPPG ID: 41-005-20190509). The guidelines should not therefore be rigid prescriptions.

4.19.2 Modification 7 above has made recommendations concerning revised proposals for the St James' Hospital Grounds East, land within this site and originally proposed as a LGS. For consistency this Policy needs to reference these changes as well, which were discussed and agreed at the hearing. The MNDP will now require that this site is designated as open space, with the eastern

portion of the site potentially available for health-related development if a need for this can be demonstrated. For internal consistency in the MNDP and with Modification 7 of this report, my recommendation includes reference to this where the policy needs to reflect it.

4.19.3 The HRA report undertaken on the MNDP (page 41) recommended that the policy should include wording on the need for nutrient neutrality calculations with any development with increased sewage production impact. In my view this is more appropriate to be included in the Design and Development brief for any future developer to be made aware of.

4.19.4 In order that Policy STJ1 and its development brief have due regard to government policy and guidance and EU obligations, I recommend that they are amended as shown in Modification 10.

**Modification 10:**

Policy STJ1 to be amended as follows:

Criteria 3 to read: *The design and layout complement the local distinctiveness of the site and parkland landscape **should have due regard to** ~~meeting the requirements of~~ the following design and development brief.*

Criteria 4 to be deleted.

New Criteria 6 (will be numbered '5') to read as follows:

**“Open space designated at St James’ Hospital Grounds East and shown on the Green Spaces Map will be available for health related development on that part of the site so designated if need for the development is demonstrated to the satisfaction of the LPA.”**

The Development Brief for the site on pages 26-28 of the MNDP to include recommended text from the HRA for the MNDP:

**“Development proposals must undertake nutrient neutrality calculations for development that would result in increased sewage production and demonstrate that there is current headroom at receiving wastewater treatment works in line with Natural England’s Advice on achieving Nutrient Neutrality for new development in the Solent Region”**

**4.20 Policy LAN1: Langstone Campus** The policy is proposing a land swap within the site that all parties accept in principle, but site details may vary and are not yet the subject of development proposals. The policy as proposed had a number of errors, including the designation of a proposed LGS site for potential development, and that proposed development site being shown covering a larger area of LGS 8 than was intended or acceptable in terms of wildlife impact. The policy was therefore discussed at the hearing, and draft amendments to the policy circulated afterwards by me to the site owners (University of Portsmouth), the Qualifying Body and the LPA. I have taken comments received on the draft into account in drawing up this recommended modification to the policy, and thank all concerned for their assistance.

4.20.1 As explained in para 4.13 above, an LGS cannot also be suggested for possible development. All are agreed that the northern section of LGS 8 has an important wildlife value with particular regard to Brent Geese. This area should remain designated as an LGS therefore, with no development potential indicated. There is some disagreement as to where the Site B referred to in the policy should be shown. I propose therefore that the rest of the original playing fields LGS 8 be shown an 'open space: may be available for development as permitted by Policy LAN1'.

4.20.2 The HRA undertaken on the MNDP recommended that additions to this policy be made to the effect that a project level HRA would be required for any development proposal. In this way any likely significant effects could be properly assessed and mitigation and avoidance implemented.

4.20.3 In order that Policy LAN1 complies with the Basic Conditions in that it does not breach EU obligations and has due regard for government guidance and policy, I recommend it is amended as shown in Modification 11 below.

**Modification 11: .**

1. *Development of the Langstone Campus ~~Site B~~ will be supported, providing:*

- *There is no adverse impact on the coastal landscape;*
- **Any development on open space as shown on The Green Spaces Map is balanced by new open space provision on reclaimed land on Site A (Figure 12), the new open space to link LGS 8, LGS 9 and LGS 6 and thereby increase the grazing resource for Brent Geese.**  
~~increase in ground coverage or floorspace provided is balanced by reclamation of land on Langstone Campus Site A as open landscape, so that there is no overall intensification of use on the campus as a whole;~~
- *The scheme includes details of how Langstone Campus Site A will be restored as open landscape.*
- **All new development proposals submit a Project Level HRA to consider the effects of development on the European Sites. Permission will not be granted for those that would lead to adverse effects to the integrity of European Sites.**

2. *Reclamation on ~~of~~ Site A could include:*

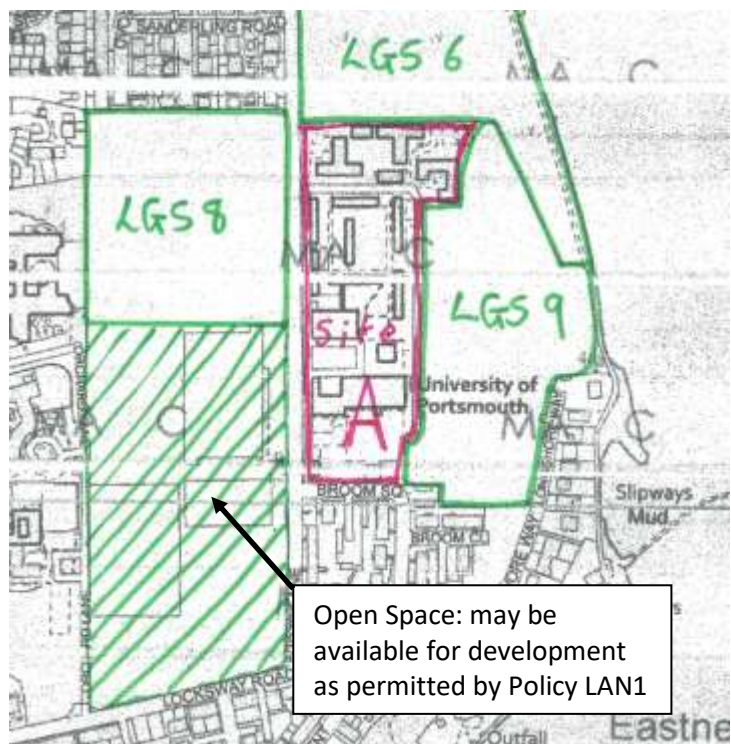
- *Recreational and sports facilities or green spaces ancillary to an educational use or as independent facilities.*
- *Returning the entire site as part of the coastal environment.*
- *Community uses that maintain the open character and wildlife value of the site.*

3. *Development and reclamation works must ~~not harm or will~~ **protect and enhance the Local Nature Reserve and the Chichester and Langstone Harbour SPA, Ramsar and SSSI within the Solent Maritime SAC including wildlife habitats for birds and have due regard to the policy and guidance in the Solent Waders and Brent Goose Strategy 2020.***

4. *Development proposals must respond to the following brief for the Langstone Campus ~~Sites A and B (see plan).~~*

The Development Brief to substitute the words 'playing field open space' or 'any development on playing field open space' for 'Site B' as appropriate.

A revised Figure 12 to show the following detail (sketched here: NTS):





## **5. The Referendum Boundary**

5.1 The Milton Neighbourhood Development Plan(MNDP) has no policy or proposals that have a significant enough impact beyond the designated Neighbourhood Plan Boundary that would require the referendum boundary to extend beyond the Plan boundary. Therefore I recommend that the boundary for the purposes of any future referendum on the MNDP shall be the boundary of the designated Neighbourhood Area for the Plan.