

Milland Neighbourhood Development Plan 2015- 2030

Submission Version

A Report to South Downs National Park Authority on the Examination of the Milland Neighbourhood Development Plan

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Introduction

Neighbourhood planning is a process introduced by the Localism Act 2011 which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside, which currently is the (somewhat outdated) Chichester Local Plan adopted in 1999 and in time by the South Downs National Plan Local Plan. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

The neighbourhood plan making process has been led by Milland Parish Council. A Steering Group was appointed to undertake the plan preparation made up of Parish Councillors and lay members. The members of the Steering Group have changed over the lifetime of the Plan. Milland Parish Council is a “qualifying body” under the Neighbourhood Planning legislation.

This report is the outcome of my examination of the Submission Version of the Milland Neighbourhood Development Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum then the Plan will be “made” by South Downs National Park Authority, which is the Local Planning Authority.

The Examiner’s Role

I was formally appointed by South Downs National Park Authority in December 2015, with the agreement of the Parish Council, to conduct this examination. My role is known as Independent Examiner. My selection has been facilitated by the Neighbourhood Planning Independent Examiner Referral Service which is administered by the Royal Institute of Chartered Surveyors (RICS)

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 37 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both South Downs National

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Park Authority and Milland Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

Under the terms of the neighbourhood planning legislation I am required to make one of three possible recommendations:

- That the plan should proceed to referendum on the basis that it meets all the legal requirements.
- That the plan should proceed to referendum if modified
- That the plan should not proceed to referendum on the basis that it does not meet all the legal requirements.

Furthermore, if I am to conclude that the Plan should proceed to referendum I need to consider whether the area covered by the referendum should extend beyond the boundaries of area covered by the Milland Neighbourhood Development Plan area.

In examining the Plan, the Independent Examiner is expected to address the following questions

- a. Do the policies relate to the development and use of land for a Designated Neighbourhood Plan area in accordance with Section 38A of the Planning and Compulsory Purchase Act 2004?
- b. Does the Neighbourhood Plan meet the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 namely that it specifies the period to which it is to have effect? It must not relate to matters which are referred to as “excluded development” and also that it must not cover more than one Neighbourhood Plan area.
- c. Has the Neighbourhood Plan been prepared for an area designated under Section 61G of the Localism Act and has been developed and submitted by a qualifying body.

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land covering the area designated by South Downs National Park Authority for the Milland Neighbourhood Development Plan on 13th June 2013.

I can also confirm that it does specify the period over which the plan has effect namely the period between 2015 and 2030.

I can confirm that the plan, if amended in accordance with my recommendations will not cover any “excluded development”.

There are no other neighbourhood plans covering the area covered by the Plan designation.

Milland Parish Council as a parish council is a qualifying body under the terms of the legislation.

The Examination Process

The presumption is that the neighbourhood plan will proceed by way of an examination of written evidence only. However, the Examiner can ask for a public hearing in order to hear oral evidence on matters which he or she wishes to explore further or if a person has a fair chance to put a case.

I am required to give reasons for each of my recommendations and also provide a summary of my main conclusions.

I am satisfied that I am in a position to properly examine the plan without the need for a hearing. No parties have requested a hearing.

I did raise a number of questions with both the Parish Council and the LPA, who were able to prepare a joint response which has helped me with my examination.

I carried out an unaccompanied visit to the area to re-familiarise myself with the village and the surrounding settlements.

The Consultation Process

The Consultation Statement describes how the neighbourhood planning exercise has been carried out.

The process commenced with the setting up of a focus group in November 2012 which evolved into a Neighbourhood Plan steering group in February 2013. The public launch was through the pages of the April edition of the Milland News – the bi monthly community newspaper and the Annual Parish Meeting held on 18th April 2013. That has been the main vehicle that the residents have been kept up to date with progress on the Plan.

In July 2013 an Open Workshop was held which included a presentation by local schoolchildren which lead to the development of scenarios. Focus groups were held for residents and businesses over the following months.

In October 2014 a detailed questionnaire was circulated by email to households in the parish and the first set of policies were considered by the Parish Council in the following month which were published in the December 2014 edition of the Milland

News. Responses from the various consultations were incorporated in to the Regulation 14 consultation which was launched at the Annual Parish assembly held on 23rd April 2015. The Regulation 14 consultation ran for 6 weeks from 23rd April to 5th June 2015. The Parish Council approved the Submission Version of the Plan on 17th September 2015.

Regulation 16 Consultation

I have had regard, in carrying out this examination, to the comments made during the period of final consultation which took place between 2nd October 2015 and 13th November 2015. This consultation was organised by South Downs National Park Authority who had received the Submitted Plan, prior to it being passed to me for its examination. This stage is known as the Regulation 16 Consultation.

In total 6 responses were received. These from from Southern Water, South Downs National Park Authority, Highways England and a representation from the former Chairman of the Parish Council who had been involved in the early stages of the Plan's preparation plus a submission from a landowner which was promoting development of land known as Strettons Copse, and one additional representation. I will refer to the results of the Regulation 16 consultation where relevant in the specific sections dealing with the Proposed Policies.

The Basic Conditions Test

The neighbourhood planning examination process is different to a Local Plan examination, in that the test is not one of "soundness". The Neighbourhood Plan is tested against what is known as the Basic Conditions which are set down in legislation. It will be against these criteria that my examination must focus.

The 5 questions which constitute the basic conditions test seek to establish that the Neighbourhood Plan: -

- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State
- Will contribute to the achievement of sustainable development
- Will be in general conformity with the strategic policies set out in the Development Plan for the area?
- Does not breach or is otherwise incompatible with EU obligations or human rights legislation?

- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects.

Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Chichester Local Plan which is now somewhat out of date having been adopted in 1999. However, a number of the policies are saved in 2007. The Neighbourhood Plan was being prepared in parallel with the early stages of the National Park's Local Plan, which whilst a useful context is not the document that the examination must not be based on in assessing compliance with the strategic policies in the development plan.

Compliance with European and Human Rights Legislation

The Parish Council requested South Downs NPA to screen whether the Milland Neighbourhood Development Plan should be the subject of a Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the "Environmental Assessment of Plans and Programmes Regulations 2004".

The Park confirmed, following consultation with the statutory consultees to the effect that an SEA was not required and I have been sent a copy of that screening opinion. I am satisfied that the Park's conclusion is sound.

I have received no representations that there is any incompatibility with the European or Human Rights legislation and I am satisfied that this element of the Basic Conditions test is met.

The Neighbourhood Plan: An Overview

I found that overall the Plan was well written, had a straight forward narrative style and the documentation was easy to navigate, although I did find some of the sequencing strange, such as the insertion of the Settlement Policies between Policy

HD2 and Policy HD3. I have, however, had to make changes to the wording to most of the policies, to bring them into line with Basic Conditions. I have set out my reasons in each case but often it is to give greater certainty to the decision maker. For example, it is not a helpful planning policy to say that each case will be determined on a case by case basis. Sometimes the policy sought to control matters that planning policy cannot control such as caravan site owners controlling how their customers use the local roads. I appreciate that Neighbourhood Plans are written by layman, who will not be as familiar with the planning system as professional planners, but it is important to understand that the policy will be used as part of the development plan, by developers and landowners, planning officers, Inspectors on appeal as well as residents. Hopefully my recommended alterations are clear and understandable. I have recommended in places changes to the supporting text but the Plan may benefit from a further edit to ensure that the text is consistent with the amended wording of the policies. That task goes beyond my remit as Independent Examiner of the Plan. Similarly, it will be necessary for the policies to be renumbered where there have been deletions.

I have through my alterations sought to introduce a hierarchy of settlement policy, covering the main village with a settlement boundary, smaller settlements and the rest of the countryside, which then obviated the need for a policy to cover ribbon development. I did find that there were some instances where the policies appeared to be contradictory particularly between what the Settlement Policy was promoting and the market housing policy.

It is clear that the infrastructure provision is a major issue for the parish but I fear that using it as a brake on development that ordinarily should be carried out, is not in accordance with national policy, especially when it extends to mobile phone coverage and fast broadband. I have had to make changes to that policy which may disappoint some, but the general position that I could summarised as “ we don’t want development until all the infrastructure inadequacies have been resolved” is untenable.

The Neighbourhood Plan Policies

Introduction

Whilst in para 3.0.4 the two purposes of National Parks is quoted, it would be appropriate to include the additional duty of National Park Authorities to foster the economic and social well being of their local communities

Recommendation

- Insert after Purpose 2 “There is also a duty to foster the economic and social well being of the local communities”

Settlement Boundary and Exception Sites

I note that the initiative to include a Settlement Boundary came from the National Park Authority who had proposed the inclusion of Milland in the list of villages and towns that should have a defined settlement boundary in their emerging Local Plan. This request would have come late in the plan making process and representations have been made about the lack of consultation regarding the drawing of the boundary. I am satisfied that any person who had views about the appropriateness of the boundary have had an opportunity to make their views known at the Regulation 16 consultation stage. I do also note that the draft Local Plan (Policy SD23) does not allocate a target figure for housing to be built in the Neighbourhood Plan area.

The emerging local plan policy does allow exception sites for 100% housing on the edge of settlement boundaries. The neighbourhood plan does not allocate any sites for development, let alone any exception sites but does indicate the matter will be reviewed at regular intervals. That is appropriate response so long as it is done on the basis of a review of this neighbourhood plan.

Natural Environment and Countryside

Policy EN1 Natural environment

I am concerned that the policy as currently worded goes beyond the approach set out in the NPPF. This policy has also been objected to by Southern Water in that it sets the bar too high for infrastructure development. Essentially the policy presumes against any development that will lead to loss of any natural resource. The Secretary of State's advice is that these should be **criteria based policies**, so that the level of protection is commensurate with their status and given appropriate weight to their importance and the contributions they make to the ecological network.

I invited the Parish Council and the National Park Authority to suggest to me how the policy could be reworded to follow the advice set out in paragraph 113 of the NPPF which is that policies should be criteria based depending on the status of the protection that the designation requires. I am afraid that the suggestion that the policy should be amended by the addition in the penultimate sentence of the policy of the wording “in line with European and National Legislation and in accordance with their designated status” does not provide the explicit hierarchy of protection that I was looking for to bring it into line with national advice and with sufficient clarity. I had drawn attention to both parties to the fact that I felt that the approach being

taken in the emerging policy SD12 of the Park Local Plan was the right approach. Because that is only draft policy at the present time the emerging policy would only have limited weight in the determination of any planning application. I am therefore minded to recommend that the modification of the policy based on wording used in the draft South Down Plan be used. To my mind, the policy within the Submission Version of the Neighbourhood Plan does not accord with Secretary of State advice and does not meet the Basic Conditions.

There are changes required to the supporting text. It is not appropriate for a neighbourhood plan to attempt to change the priorities of a national park, by promoting the protection of the environment and the desires of the local inhabitants over the second purpose of the National Park, which is to promote the understanding and enjoyment of the special qualities of the National Park.

Furthermore, the aim of the policy to “embrace adjacent land beyond the parish borders” would be contrary to the legislative requirement that the provisions of the plan can only relate to the area which is designated.

Recommendations

- Delete from the supporting text “Policy EN1 Natural Environment will embrace adjacent land... through to the end of the next paragraph”
- Amend policy by deleting “only” from first sentence and replace all text after “Landscape Character” with
“Development proposals that conserve and enhance biodiversity and geodiversity and comply with other relevant policies and European and National Legislation will be permitted, provided that they are in accordance with the requirements and hierarchy of designation set out below. Development proposals that have an adverse impact on biodiversity or geodiversity, which cannot be adequately avoided, mitigated or compensated for, or which harm the special qualities will be refused.
2. Development proposals should give particular regard to ecological networks and areas with high potential for priority habitat restoration or creation and should:
a) retain, protect and enhance features of biodiversity and geological interest and ensure appropriate management of those features; and
b) ensure that any adverse impacts (either alone or in-combination) are avoided, or, if unavoidable, minimised through mitigation with any residual impacts being compensated for (having regard to the hierarchy of designation).
3. The following hierarchy of designation will apply:
(i) *International Sites: i.e. Wealden Heaths Special Protection Area (SPA)*
If a development proposal is considered likely to have a significant effect on one or more international sites, an Appropriate Assessment (AA) will be

required (the need for AA should be assessed at the Habitat Regulations Assessment (HRA) Screening stage).

Development proposals that will result in any adverse effect on the integrity of any international site which cannot be either avoided or adequately mitigated will be refused unless it can be demonstrated that there are:

- a) no alternatives to the proposal;
- b) imperative reasons of over-riding public interest why the proposal should nonetheless proceed; and
- c) adequate compensatory provision secured.

(ii) National Sites: i.e. Chapel Common and Forest Mere Sites of Special Scientific Interest (SSSI)

Development Proposals considered likely to have an adverse effect on national sites will be required to assess the impact by means of an Ecological Impact Assessment.

Development Proposals that will result in any adverse effect on the integrity of any national site which cannot be either avoided or adequately mitigated will be refused, unless exceptional circumstances are clearly demonstrated.

(iii) Irreplaceable Habitats (including ancient woodland and the loss of aged or veteran trees found outside ancient woodland:

Planning permission will be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

(iv) Local Sites: Sites of Nature Conservation Importance (SNCIs) / Sites of Importance for Nature Conservation (SINCs), Local Nature Reserves and Local Geological Sites.

Development proposals considered likely to have an adverse effect upon local sites will be required to assess the impact by means of an Ecological Impact Assessment.

Development proposals within locally designated sites will not be permitted unless they are necessary for biodiversity or geodiversity management work or can demonstrate no adverse impact to the biodiversity or geodiversity interest.

(v) Outside of designated sites (including habitats listed in the Biodiversity 2020 priority species and habitats list):

Development proposals will, where appropriate, be required to contribute to the protection, management and enhancement of biodiversity and geodiversity.”

Policy EN2 Dark Night Skies

I have concerns that the first part of the policy is not actually policy, but is the objective of the policy and should be deleted from the policy. Equally the installation of street lighting is not a matter that comes under planning control and accordingly

the second sentence should be removed. The policy regarding security and other lighting could be strengthened. The wording of the policy should not refer to the scrutiny of a proposal, but give a clear indication that any lighting that is unneighbourly or which could unnecessarily affect the quality of the dark sky, will not normally be allowed and where appropriate, conditions controlling such issues as hours of usage will be imposed.

Recommendations

- Delete all of policy and insert
“Security and other outside lighting that will adversely affect the amenities of the other occupiers or habitats or which cause unnecessary light pollution which reduces the quality of the dark night sky will be refused”

Policy EN3 Green infrastructure

The reference to a “blanket” TPO in the accompanying text should be removed, as there are only 3 types of Tree Preservation Orders; Individual, Group and Woodland TPOs. I have suggested that the wording be changed to be more easily used for development management purposes.

Recommendations

- Remove “blanket” from the last sentence of the first paragraph.
- The policy be reworded by the insertion of the following text before the final sentence which is to be retained.

“Development will be expected to not compromise, and where possible should enhance, the integrity of the green infrastructure assets and networks in the Plan area which will include the open spaces, woods, wetlands, meadows, watercourses, ponds, parklands, gardens, public footpaths and bridleways”.

Paragraph 3.1.4 Minerals

Whilst not a policy as such nevertheless the inclusion of this section dealing with minerals, which is a category of what is termed “excluded development” whose inclusion in a neighbourhood plan is inappropriate and the paragraph should be removed.

Recommendation

That this section be deleted and corresponding sections be renumbered

Policy EN4 Renewable Energy

This policy needs to be redrafted as a positive statement of policy. For the sake of precision, the reference to impacts “impinging” on local residents could include a positive impact. The proper test is whether it would *adversely* impact on local residents, the public and wildlife.

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I do not consider that a policy constraint should be imposed on an otherwise acceptable development by virtue of the impact of “heavy goods vehicles” for the construction and servicing periods. The size of the access roads will of course be a constraint in terms of how deliveries are made to the site, but it is not a planning policy consideration, to be used to prevent an acceptable development from proceeding. In the same way one would not refuse planning permission for the building of a new house on the basis of the large lorries that will have to deliver the roof trusses and other materials to site. It may be necessary for special arrangements have to be made and this is not a planning matter but a need for liaison with the Highway Authority. This part of the policy should be deleted.

It is not appropriate for applications which satisfy the policy criteria, “to be more favourably considered if they benefit the local community.” Whilst local benefits may be encouraged it would inappropriate not to approve a policy compliant development, for want of the local benefit.

Recommendations

Delete” Whilst the parish supports the use of renewable energy sources” and replace “would need to meet” with “will be approved subject to meeting”

In criteria 2 delete “impinge upon” and insert “adversely impact”

Delete criteria 3 and the final paragraph of the policy

Cultural Heritage, Design and Settlement Policy

Policy HD1 Heritage Sites

Planning Policy Guidance on neighbourhood planning policies should be “clear and unambiguous”. The guidance goes on: “Policy should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence.”

I have concerns that language regarding proposals that “*might* damage or detract from from any potential heritage sites” is too loose. This is a point made by the SDNPA in their representations in respect of this policy. Those heritage assets that are already designated are clear but potential sites are difficult to ascertain. The SDNPA has helpfully suggested that reference to the LPA’s archaeologist could assist in identifying areas of potential interest that warrant additional investigation. I am recommending that as well as setting out the need for further investigation of sites before planning application are decided but also there should be an assessment of harm against the significance of the heritage asset. That and a number of minor wording changes would bring the policy into line with the NPPF.

Recommendation

- Replace all of the policy including the supplementary reference to NPPF and Local Plan policies with:-

“Development that could damage or detract from any heritage asset or potential heritage site that has been identified following an initial appraisal by the planning authority’s archaeologist as possibly having evidence of the area’s early history and prehistory (see Maps 14 and 20), will only be permitted after proper and independent archaeological research and / or heritage risk assessments have been undertaken at the expense of the applicant and steps taken to protect such heritage assets and their setting in a manner appropriate to their significance. Where appropriate, applicants will be required to contribute towards the conservation of such heritage sites and artefacts. In particular, Milland Lane and Iping Road are on a Roman road, part of which within the parish is a Scheduled Ancient Monument, and its heritage must be respected. Any development along these lanes should be taken as an opportunity for further archaeological investigation.”

Policy HD2 Landscape Character

My issue with this policy is that this policy is too all encompassing. There are some developments that will take place within the plan area that has absolutely no impact upon the landscape character of the parish. It is unclear how the caveat “especially outside the core village” could be used in decision making, as it almost introduces a two tier assessment process. The policy is essentially sound if it applies to any development that by its nature will have an effect on the landscape. This objective can be achieved by the addition of the proviso “where appropriate”

The policy then goes on to deal with compatibility with the built environment and the natural environment policies. This would introduce confusion and duplication where there are policies covering these matters and it is recommended that these elements of the policy be removed so that it solely deals with landscape impact.

Recommendations

- Insert “where appropriate” after “all development” and delete “especially outside the core village”
- Delete “will respect and” and insert “must have regard to and where possible”
- Delete “existing built environment” and insert “landscape quality” and then delete wildlife and cultural heritage”

Policy S1 Core Village Development

There is scope for confusion by the inclusion in the text of 3.2.1 which states that further development should be concentrated in the core village “although a limited case can be made for the northern part of the parish beyond the B2070”. That wording raises expectations of development potential which would otherwise be inconsistent with policies in both this plan and in the Local Plan.

Equally unclear is the fact that the policy deals with development in the core village but the text then includes reference to infill sites to any of the small settlements. These matters are dealt with in Policy S2 and should be removed from the policy dealing with the core village area (Policy S1).

A representation has been made that the settlement boundary should have been enlarged to include the Strettons Copse site. However, this site is heavily treed which contributes to the rural setting of the main village and its residential development would put development beyond the existing village envelope. I am not minded to change the settlement boundary.

Another representation feels that the boundary has been drawn too tight in the south east quadrant of the village. I looked at this very carefully on the site and my conclusion was that if the Plan had been looking to promote substantial growth, then spatially this would be the right area to consolidate new housing. However, that is not the context that the Plan needs to respond to, and this is confirmed by the questionnaire responses and so, bearing in mind, much is village playing fields alongside the village hall and shop, I do not propose any change to the boundary as proposed in the Plan.

The policy within the core village is to only to allow affordable housing within the boundary. This approach is subsequently contradicted by the Policy H4 that would allow market housing if it could be shown that there is no demand for affordable housing or other uses.

I have debated whether this restrictive approach is justified. I have had particular regard to the NPPF’s general desire to increase house building and the fact that this is the most sustainable location within the parish. However, this is balanced against the fact that the emerging Local Plan does not set a specific housing requirement for the settlement and it is clear that the community has expressed a clear desire for new affordable housing in preference to further general residential development. If a more relaxed policy were to be applied, then that is likely to squeeze out the chances of achieving affordable housing on small sites in terms of site value. I am content with the policy also allowing community facilities, small scale retail and business uses within the village core.

The policy for green spaces appears to covers areas that are principally beyond the core village boundary. It would be more appropriate for this to be covered by a general policy for all the areas outside the settlements.

I do have serious concerns regarding the wording of the last sentence, which covers agricultural fields and paddocks surrounded by built up areas which “will be assessed on a case by case basis”. This does not provide the decision maker or the applicant with the certainty that a development plan should give. The wording of the policy as such does not contribute anything to the policy and should be deleted. In any event this would now be covered by my proposal for a new Policy S3.

Recommendations

- In para 3.2.1 - Delete the last sentence
- Delete “In general, for” and insert “Within”. Delete “appropriate”, delete “only be permissible” and insert “will be permitted”
- Insert “(i.e. sites within a continuously developed road frontage, with direct access to the road”) and delete the sentence that starts “**Infill sites**”
- Delete words in brackets after “green **spaces**” and insert “within the settlement boundary.”
- Delete the last sentence of the policy.

Policy S2 Development in Smaller Settlements

Again the issue is that the policy lacks certainty when it describes how “small scale new development *might* be acceptable.” The policy allows rural worker housing. The residential use of heritage assets as an optimal use should not just be restricted to settlements as the heritage asset could be in any part of the Parish. To restrict the residential use to settlements would go beyond the scope of the NPPF.

The presumption against isolated homes in the countryside is generally in accordance with national policy and following the logic of the settlement policy hierarchy. This would justify its own policy which I am suggesting as a new Policy S3. However, to fully accord with the Framework there should be a policy presumption in favour of the change of use of redundant buildings in the countryside including residential.

Recommendations

- Replace “might” with “will”
- Insert after “place of work, occupation to be restricted by planning condition”
- Delete “for the optimal use of a heritage asset “ and insert ‘ or the reuse of a redundant or disused building”.
- Delete the final sentence

Policy S3 Ribbon Development

This policy rightly seeks to prevent the coalesce of smaller settlements and / or the core village. However, such a policy dealing with just ribbon development would be unnecessary with the policy presumption against inappropriate development outside settlements apart from the conversion of redundant or disused buildings. I am therefore suggesting that this policy be replaced by a policy for Development Outside Settlements

Recommendation

- Retitle policy as “Development Outside Settlements”
- Replace the existing policy with “There will be a presumption against all new development in the countryside areas, outside the Milland Village and the smaller settlements as shown on Map7 apart from those where there is a proven and genuine need for a countryside location, such as for agriculture and forestry, the conversion of existing redundant or disused buildings and the replacement of existing houses with a new house so long as it does not result in the loss of a small dwelling(3 bedrooms or less) in line with Policy H1”

Policy S4 Wheatsheaf Enclosure

This policy needs to be clarified as it partly includes the objective of the policy within the policy i.e. “the objective of the policy is that the founding concept of the development will be respected”. The policy needs rewriting to give a clearer indication of what development will be allowed. Furthermore, the extent of the area covered by the policy needs to be defined by reference to a map showing where the policies apply.

As the policy will form part of the development plan, the removal, in time, of the policy cannot just be a matter for the Residents Association or indeed the matter for the reconsideration just by the Parish Council as any amendment would have to take place following the same processes set out in the Neighbourhood Plan Regulations as which has covered the preparation of this Plan. That is due to the statutory weight that is given to its planning policies which cannot be set aside just by a resolution of a meeting.

Recommendations

- Delete “the founding concept for this settlement will be respected i.e.”
- Insert “be expected to “, and delete all text within the brackets
- Delete “New builds or property extensions will” and insert “Replacement dwellings or residential extensions will be expected to” and delete “that is currently enjoyed by residents”
- Insert detailed boundary map of the Wheatsheaf Enclosure

Policy S5 Mill Vale Meadows

Again the policy needs to be refined to remove the objective of the policy which can be relocated in the supporting text. Again a map needs to be added to establish the boundaries of the policy.

Recommendation

- Delete “the original concept of the estate should be respected” and insert” the existing pattern of development will be expected to be retained.”
- Delete the last sentence and insert” the alteration of the the bungalows by the insertion of a second floor under a new roof will be refused although alterations to allow the introduction of living accommodation within the existing roofspace will be approved subject to design and amenity considerations”

Policy HD3 Built Form and Material s

The last part of the policy refers to the emphasising the achievement of sustainable standards through energy efficiency. Following the statement by the then Secretary of State for Communities and Local Government to the House of Commons dated 25th March 2015, the Government has made clear that neighbourhood plans cannot include policies relating to the technical standards regarding construction standards and performance for residential development. These matter are to be dealt with in the future by building regulations.

Recommendation

- Insert “The design of new buildings will be expected to have regard to” and delete” will be expected and enhanced”
- Delete everything after “parish” in the first paragraph including the second paragraph.

Policy HD4 – Core Village Design

Again the policy includes the purpose of the policy which needs to be edited out. Further not all development will have an impact on the public realm, it is therefore inappropriate for that development to be required to positively enhance the public realm. Furthermore, the decision maker would not need to judge whether materials to be used are “high quality”- the issue is whether the proposed materials are acceptable. Equally the phrase “The suburbanisation of the core village will be resisted, especially the use of generic features and the cluttering of the public realm” is too vague. Many of the features that the policy appears to be addressing falls outside the scope of planning control. That sentence is recommended for deletion.

Recommendation

- Delete “In order to maintain a sense of identity and a sense of community within the core village, all developments must” and insert “Any new buildings will be expected, where appropriate to “
- Delete “high quality” and insert “appropriate”
- Delete the last sentence

Policy HD5 Historic Buildings.

This policy fails the Basic Conditions test in that it does not provide certainty as to how a planning application is to be determined, it merely states that applications for the conversion of historic buildings will be considered on a case by case basis. This policy only offers uncertainty and goes not give guidance to the decision maker. Furthermore, it does not comply with national policy which stresses the importance of heritage assets being put to viable uses.

Recommendation

- Delete the first sentence and insert “Proposals that have an unacceptable impact on the listed building or their setting will normally be refused.
- Delete “considered on a case by case basis but the essence” and insert “normally be approved so long as the use is appropriate for the building and its location subject to the character of the “and delete” should be preserved” and insert “being protected along with its setting”
- Delete “and the wider context will be taken into account”

Policy HD6 Heritage Assets

It is quite in order for a neighbourhood plan to designate buildings and structures as local heritage assets although they are not listed. The plan includes in Appendix 2 includes a list and a detailed plan has been produced which needs to be inserted,

Recommendation

- Insert map on an OS base identifying all the undesignated heritage assets

Accessibility and Communication Systems

Utilities and Communication Systems

It is clear that this has been a major concern within the village. However, I have serious concerns that the approach being taken which is to effectively place an embargo on new development, does not meet the basic conditions test. Even the objective lacks clarity and this is again repeated in the policy- it talks of new major development should take place but it does not define what would be considered major development and the applicant would not be able to ascertain whether their

proposal is covered by the policy. Similarly, it refers to “Certain aspects of the parish’s infrastructure have been addressed” without saying what that infrastructure is, so a decision maker would not know whether the scheme was then able to proceed.

Recommendation

- Amend Objective 3 To read “To ensure that any new development is adequately served by the necessary infrastructure required to allow that development to take place”

Policy I1 Infrastructure

The policy wording does not give clarity in terms of what is major building development, or what specific infrastructure needs have to be met supposedly across the whole plan area. Southern Water in their representations, along with another objector rightly the policy goes beyond what is set out in the NPPF. Para 67 of that document refers to the economic component of sustainable development which includes identifying and coordinating development requirements, including the provision of infrastructure. It is necessary to identify the specific infrastructure requirements and impacts arising from that specific development and then assess whether the development can either address that impact which would otherwise mean that the development cannot proceed or without it adversely affecting the wider system. This can be achieved by a number of different approaches or solutions.

Similarly, I do not see that some of the deficiencies identified, in terms of say the communication infrastructure with mobile phone coverage and fast broadband, should prevent development taking place. I have seen no evidence from statutory undertakers and service providers that would support the stance being taken by the Neighbourhood Plan, which effectively is saying that there should be no major development unless all the parish’s infrastructure deficiencies, have been resolved to the community’s satisfaction. That is not the positive approach to neighbourhood planning that the government is proposing. I do accept that that there is a need for a policy to deal with the impact of new development through its implementation worsening the capacity existing network.

Recommendation

- Delete the first paragraph of the policy and insert “New development should make full and proper provision for its own infrastructure needs without adversely affecting the capacity of existing networks”
- Insert “including mains sewerage, mains water supply, landline, fast broadband and mobile phone network “ after “ infrastructure” in the second paragraph

Access

I do recognise that the narrowness of the north - south lanes does provide a constraint on the type of vehicles using them and equally any widening would destroy much of the specific charm and beauty of this part of the National Park. However, I have not come to the same conclusion with respect of the east west route and I have seen no evidence that would justify the plan taking an overly restrictive position, based on the adequacy of this route. This is a point that two of the local representations make too. Should the Parish Council wish to introduce restrictions on the size of vehicles using the roads in the area then the appropriate mechanism is through Traffic Regulation Orders which would be made by the Highway Authority. That would be the correct tool to achieve the objective of trying to control the use of roads by certain vehicles through planning policy.

Policy I2 Lanes

I do have concerns that the wording of this policy does not accord with NPPF advice. Firstly, the drafting is imprecise. How would a decision maker conclude whether a development “would add noticeably to the traffic burden within the parish” and equally, I have seen no evidence relating to particular volumes of traffic, delays at junctions or journey time delays that the volume of traffic is a particular issue, beyond one of perception. The NPPF is clear that “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe” (para 32).

Recommendation

- Remove the third and fourth sentence of the policy

Housing

The plan talks about the “sufficiency and the balance of the housing supply within the parish will be reviewed by the parish council, giving due consideration to the supply in the adjacent and nearby parishes and settlements that are better suited to development”. Planning policy cannot be changed by an annual review by a parish council. Decisions on the use and development of land have to be taken in the context of the development plan, which has to be based on robust evidence and has to be subject to public consultation including the development industry and also be the subject of external scrutiny in some cases. The appropriate response is to keep the plan under review so that it can respond to changed circumstances. The Neighbourhood Plan has taken the decision not to allocate land for housing, but rather it relies upon a policy based approach.

I also consider that it would not be appropriate to include within the objective and policy, any assumptions about the viability of new building for developers. It may be that a single house is a profitable project for a developer.

Recommendation

- Replace the Objective with “To ensure that any new housing within the plan area should be primarily aimed at meeting local housing need and in particular smaller units for affordable or low cost housing.”

Policy H1 Enlarged Homes

The policy suffers from the same deficiencies as with other policies, where it states that the LPA will consider all applications on a case by case basis. That is not the purpose of a development plan or in terms of the statutory basis of planning decision making, which is that planning applications should be determined in accordance with the Development Plan unless material circumstances dictate otherwise. Similarly, no guidance is offered as to whether an alignment is considered to be “substantial”.

Equally, if planning permission is granted for a replacement house that is substantially larger than the original, the requirement to build a second smaller home as well, may in itself be contrary to other policies in the plan. Furthermore, a developer might welcome the opportunity to be able to build a second house on the site, that may not in all cases be viable economically and as such would be contrary to advice given in paragraph 173 of the NPPF. I consider that the policy would be unnecessary if the policy is reworded so as to avoid the loss of small dwellings which the SDNPA and the Parish Council have suggested would be three bedrooms or under.

Whilst I understand the sentiment within the policy, I consider it to be a more appropriate response would be to presume against excessive extensions or replacements rather than encouraging additional housing in what may be unsustainable locations, which could be an unexpected consequence of the policy as written.

Recommendation

- Delete policy and insert “Proposals for the replacement of an existing dwelling or the extension of an existing property will only be permitted if the works do not result in the loss of a small dwelling i.e. the property will only still contain no more than 3 bedrooms”

Policy H2 Affordable Housing

This policy essentially meets Basic Conditions but requires two alterations. Reference to the design of such housing should be omitted from this policy as it covered by the separate design policy. In terms of the definition of what constitutes a local connection – including such a detailed definition within a development plan policy may be too inflexible, not allowing for the District Council as housing authority to change the policy. This is a point made in the representations of the SDNPA in their comments and it may be better to rely upon the “Local Housing Local Connection Allocation Policy”

Recommendation

- Delete the final sentence of the first paragraph
- Delete all text after “housing register” and insert “and who comply with the provisions of the Chichester District Council Local Housing Local Connection Allocation Policy”

Policy H3 Community Land Trusts

This policy appears to give support to a particular status of applicant. The policy is vague in that it only refers to consideration being given to applications. All planning applications have to be considered. I have seen no evidence to justify why applications from Community Land Trusts in particular should be supported in preference to other applicants. Similarly, whilst the self build initiative can be supported it is not being suggested that self build houses would be allowed in any area where residential development would not otherwise be allowed. As such I consider the policy to be unnecessary.

Recommendation

- That the Policy be deleted.

Policy H4 Market Housing

I have struggled with the overall restrictive approach being proposed for market housing, particularly within the core village area. The NPPF includes a presumption in favour of sustainable development when considering housing applications but I am particularly aware that national park policy as set out in paragraph 78 of the 2010 Circular English National Parks and the Broads- UK Government Vision and Circular states that new housing in the parks will be focussed on meeting affordable housing requirements. I consider that it would be impractical to have a policy to allow market housing only at a time when the need for affordable housing has been said to have been met.

The policy as set out in Policy S1 is that only affordable housing should take place within the Core Village Settlement boundary and then development would firstly have to be on brownfield sites which are not capable of being used for other purposes or be on small infill sites.

There needs to be consistency between what the settlement policy is proposing and the housing policy and I am not convinced the two policies are currently compatible with each other, especially when considering development in the core village and settlements.

Furthermore, I am concerned that the policy suffers from the same failing s other Plan policies, in that the wording does not provide the certainty and the predictability that the system requires of a development plan. Therefore, phrases such as “consideration might be given (although not necessarily)” are unhelpful.

To summarise my analysis, Settlement Policy restricts development in the core village to affordable housing and as I have said I do not think there is likely ever to be a scenario where need for affordable homes has been met in which case it is inconsistent to then have a policy which controls the type of market housing covering the core village area. In the smaller settlements, the policy is to allow only housing to meet the needs of rural workers, which will have to be restricted as to the occupancy and would therefore not constitute market housing available to all. There is then a presumption against housing in the countryside areas, outside settlements, unless it is to meet an essential rural need which again will have local occupancy conditions attached. Therefore, the only scope for market housing, is for replacement housing on a one for one basis which has a policy relating to its size or through the conversion of buildings into dwellings. My concern that adopting the criteria set out in the policy H4 is unnecessary and introduces a conflict with the overarching settlement policy.

The only other possible scenario is whether a rural exception site was to be considered. Ordinarily this would be identified in the development plan and the Neighbourhood Plan is not promoting one or allocating a site. However, it could be come forward as a planning application. The NPPF does state that some market housing could be justified in order to fund the affordable housing without grant aid. The form and location of that market housing if required would be driven by the particular circumstances of the proposal in question. My view is that if such an initiative were to be required, because sufficient affordable housing is not being delivered through other policies in the Plan, then this should ideally be dealt with via a review of the neighbourhood plan.

I have given this matter a lot of thought but I have come to the conclusion that this policy should be removed as it is contradictory to the overall Plan's settlement policy.

Recommendation

- That the policy be deleted

Policy H6 Granny Annexes and Sheltered Housing

Again the policy needs to be refined by removing the reference to the policy's objective.

This policy appears to cover three areas, the subdivision of properties into smaller units, the creation of granny annexes and finally sheltered housing. I did raise with the Parish Council that there could be viability issues with sheltered housing only being available for those persons with local connections and they have offered a caveat which I have incorporated into my recommendation, to ensure that the facilities are not only provided for local people.

Recommendation

- Delete ‘to cater for the growing number of older residents likely to become in need of smaller premises in later life and wishing to remain within Milland, encouragement will be given for the “and insert “Proposals for the sub” and insert “will normally be approved” at the end of the first sentence. Insert “with preference” after “very limited scale”.

Local Economy and Community

Policy LE1 Commercial Development

This policy should cover all forms of commercial development not just “building development”. The policy should also be qualified by the need to comply with other policies in the plan, thereby removing the need to specifically referring to the need to comply with Policy I1

The policy cannot restrict the use of HGVs (which in any event are not defined) as such a condition would be unenforceable. The restriction not to increase local traffic goes beyond the threshold of acceptability of traffic changes as previously referred to in the NPPF. The preference for sites on the B2070 appears to introduce a sequential approach which could prevent the acceptable development of commercial development elsewhere in the plan area.

Recommendation

- Delete “Building development” and insert “The change of use of redundant buildings and proposals for the erection of new buildings, to support local employment” and insert “and subject to compliance with other policies in this plan and” after” following criteria”
- Delete Criteria 3

Policy LE2 Live / work Dwellings

The policy as set out complies with national policy and meets basic conditions. However, reference to consideration being on a “case by case basis introduces a level of uncertainty that would be better by setting out criteria as to what will or will not be approved. The effect of a planning proposal on the value of a neighbouring property cannot be a planning consideration. Similarly it is highly unlikely that the live / work unit will change traffic flows in the parish.

Recommendation

- Delete “considered on a case by case basis to ensure that such” and insert “generally supported subject to the “
- Delete “does not alter” and insert ‘not altering”
- Delete “value “and insert “amenity”

- Delete “increase traffic flows unacceptably”

Policy LE3 Rural Industry

The use of land for agriculture, forestry or horticulture are not subject to planning control as it is not development, nor would the use of “unsympathetic protective materials”. The policy should be deleted.

Recommendation

- Delete the policy

Policy LE4 Farm Diversification.

This policy basically accords with national policy. The limitations on the use of large vehicles is again inappropriate for the reasons previously cited.

Recommendation

- Delete the last sentence

Policy LE5 Equine Enterprises

This policy requires some amendment. It is not practical to expect that any equine establishment would not require the use of horseboxes and it would be impossible to enforce a restriction of an appropriately licensed road vehicle from using certain public roads. Equally a requirement to keep the traffic to an establishment to a minimum is unenforceable. The impact on water pressure and the supply is covered by the Plans infrastructure policy. The lighting issue is covered by the Plan’s Dark Sky policy and it is inappropriate for a neighbourhood plan to require in one policy the need to comply with another part of the development plan, especially as the quoted policy is in an emergent policy which can change prior to its adoption.

Recommendations

- Delete criteria 2 and 3, 5 ,6, and 7
- Delete the last sentence

Policy LE6 Local Retail and Service Outlets

The only issue is the loose wording of the Final element “and ensures minimum use of HGV deliveries by its suppliers”. This is neither precise nor enforceable and should be removed.

Recommendation

- Delete” and ensures minimum use of HGV delivery vehicles by its suppliers”

3,5.4 Leisure Pursuits and Tourism

Quoting the policy in an another local plan as it creates uncertainty. It serves no purpose and should be removed from the Plan.

Recommendation

- Delete reference to Policy RT9 of Exmoor National Park Local Plan

Policy LE7 Leisure Pursuits

This policy is essentially sound but the SDNPA have pointed out that the restriction of noisy leisure pursuits being opposed near any settlements and will be strictly conditioned elsewhere, will affect the tranquillity of the Park and the presumption against noisy pursuits should apply over all the Plan Area.

Recommendation

- Delete “near any of the settlements and will be strictly controlled elsewhere”

Policy LE8 Visitor Accommodation

Again this is a policy that fails because it refers to matters being considered on a case by case basis. The limiting of sites to sites with formal certification abiding by Caravan Club rules is unnecessary as these are matters that are dealt with generally by Caravan Site licenses. Similarly, it is impractical for site owners to be held responsible for visitor’s vehicles being used on the local highway network. That part of the policy needs to be removed. The reference to holiday lets being considered on a case by case basis again lacks certainty and in accordance with government policy it is an economic activity that should be supported.

Recommendations

- Delete “considered on a case by case basis” and insert “generally supported”
- Delete from the third sentence everything from “as long as” to maximum stay 28days)” and delete last sentence

Policy LE9 Golf Courses

The only issue with the drafting of this policy is the assertion that golf courses will be restricted” whatever mitigation is offered in exchange” That goes well beyond the legal principle that all planning applications have to be judged against the development plan and any other material consideration.

Recommendation

- Delete “whatever mitigation is offered in exchange”

Policy LE 10 Community Buildings

The maintenance of buildings does not need planning consent and so reference to it should be removed from the policy. As the buildings to be covered by the policy are community buildings, the need to show evidence of local need is both unreasonable and unnecessary as is the need to “direct local benefit to parish residents as a priority”

Recommendation

- Delete “maintenance” and everything after “supported”

Policy LE11 Green Spaces

Again reference to the maintenance of green spaces should be removed. SDNPA suggest in their representations that the requirement to provide “Alternative equivalent green spaces being proposed which the community favours” is somewhat imprecise. The expressions of public support is not the test, it is the appropriateness of the new facilities which is the issue that decision makers will have to address as part of the development management process

Recommendation

- Delete “maintenance” and “that the community favours”

The Referendum Area

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance I can confirm that the area of the Neighbourhood Plan as designated by South Downs National Park Authority is the appropriate area for the Referendum to be held and the area for the referendum does not need to be extended.

Summary

I must firstly congratulate the Parish Council, the Steering Group and the Plan’s editor on the hard work that clearly has gone into the preparation of this Neighbourhood Plan.

It is clear that the Parish prides itself on its location within the beautiful countryside of the South Downs National Park. The Neighbourhood Plan, despite the extensive alterations I have had to make, will still provide a framework for retaining and enhancing much of what the community clearly values. It will provide a framework to enable any new housing that is to be built, to be aimed at meeting the needs of the existing community, which is consistent with the residents’ clear expression of view. It must be remembered that the Milland Neighbourhood Development Plan is about the use and development of land and there is only so much that can be achieved and some of the issues such as highway concerns and in particular, the vehicles that use them are not matters that can be controlled via planning powers.

Finally, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test.

John Slater Planning

I am therefore delighted to recommend to South Downs National Park Authority that the Milland Neighbourhood Development Plan, as modified by my recommendations, should now proceed to referendum

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning

23rd February 2016