

**Arundel Town Council**

# **Arundel Neighbourhood Development Plan 2014-2029**

## **Submission Plan**

A Report to Arun District Council and South Downs National  
Park Authority of the Independent Examination of the Arundel  
Neighbourhood Development Plan

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# 1. Neighbourhood Planning

The Localism Act 2011 empowers local communities to take responsibility for the preparation of aspects of planning policy for their area through a neighbourhood development plan. The National Planning Policy Framework (the Framework) states that “neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.”<sup>1</sup>

Neighbourhood development plans have statutory weight. Decision-makers are obliged to make decisions on planning applications for the area that are in line with the neighbourhood development plan, unless material considerations indicate otherwise.

The Arundel Neighbourhood Plan (the Neighbourhood Plan) is a ‘frontrunner’ being one of the earliest neighbourhood development plans to progress, and is nationally one of the most advanced of neighbourhood plans that includes land within two local planning authority areas.

The Neighbourhood Plan has been prepared by Arundel Town Council (the Town Council), a qualifying body able to lead the preparation of a neighbourhood plan.<sup>2</sup> Work on the production of the plan has been progressed through the Arundel Neighbourhood Development Plan Steering Group (the Steering Group) established by the Town Council in October 2011. The Steering Group included representatives of key groups within the local community. The submission version of the Neighbourhood Plan was approved by the Full Town Council on 14 November 2013.

## 2. The Plan area

The power to designate an area as a neighbourhood area is exercisable by two or more local planning authorities if the area falls within the areas of those authorities.<sup>3</sup> The Neighbourhood Plan relates to the area that was designated by Arun District Council and South Downs National Park Authority as a neighbourhood area on 29 November 2012 and 14 March 2013 respectively. This area is coterminous with the Arundel Town Council boundary that lies partially within both the Arun District Council and South Downs National Park local planning authority areas.

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<sup>1</sup> Paragraph 183 National Planning Policy Framework (2012)

<sup>2</sup> Section 61F(1) Town and Country Planning Act 1990 as read with section 38C(2)(a) Planning and Compulsory Purchase Act 2004

<sup>3</sup> Section 61I(1) Town and Country Planning Act 1990

The Neighbourhood Plan does not relate to more than one neighbourhood area,<sup>4</sup> and no other neighbourhood development plan has been made for the neighbourhood area,<sup>5</sup> and therefore those legal requirements are complied with.

The settlement of Arundel is undoubtedly a national jewel with a stunning skyline set within a most attractive landscape in the wider designated neighbourhood area. The town has a reputation as a desirable place to live and is understandably a popular visitor destination.

### **3. Independent Examination**

This report sets out the findings of the independent examination into the Neighbourhood Plan.<sup>6</sup> The report includes a recommendation as to whether or not the Neighbourhood Plan should proceed to a local referendum. Should the Neighbourhood Plan proceed to local referendum and achieve more than half of votes cast in favour, then the Neighbourhood Plan will be 'made' by Arun District Council (the District Council) and South Downs National Park Authority (the National Park Authority). Once 'made' the Neighbourhood Plan will come into force and subsequently be used in the determination of planning applications and decisions on planning appeals in the plan area.

On 21 January 2014 I was appointed by the District Council, also on behalf of the National Park Authority, and with the consent of the Town Council, to undertake the examination of the Neighbourhood Plan and prepare this report of the independent examination. I am independent of the Town Council and the District Council and the National Park Authority. I do not have any interest in any land that may be affected by the Neighbourhood Plan and I hold appropriate qualifications and have appropriate experience. I am a Member of the Royal Town Planning Institute; a Member of the Institute of Economic Development; a Member of the Chartered Management Institute; and a Member of the Institute of Historic Building Conservation. I have more than thirty-five years professional planning experience and have held national positions and the Chief Planning Officer post in several areas.

As independent examiner I am required to produce this report and must recommend either:

- (a) that the Neighbourhood Plan is submitted to a referendum, or
- (b) that modifications are made and that the modified Neighbourhood Plan is submitted to a referendum, or

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<sup>4</sup> Section 38B(1)(c) Planning and Compulsory Purchase Act 2004

<sup>5</sup> Section 38B(2) Planning and Compulsory Purchase Act 2004

<sup>6</sup> Paragraph 10 Schedule 4B Town and Country Planning Act 1990

(c) that the Neighbourhood Plan does not proceed to a referendum on the basis it does not meet the necessary legal requirements

I make my recommendation in this respect and in respect to any extension to the referendum area,<sup>7</sup> in the concluding section of this report. It is a requirement that my report must give reasons for each of its recommendations and contain a summary of its main findings.<sup>8</sup>

In my examination of the Neighbourhood Plan in addition to those matters already identified in this report I am also required to check whether:

- the policies of the Neighbourhood Plan relate to the development and use of land for a designated neighbourhood area;<sup>9</sup>
- the Neighbourhood Plan meets the requirements to specify the period to which it has effect;<sup>10</sup>
- the Neighbourhood Plan does not include provision about excluded development<sup>11</sup>

Subject to the contents of this report I am able to confirm that I am satisfied that each of the above requirements has been met.

The general rule is that examination of the issues is undertaken by the examiner through consideration of written representations.<sup>12</sup> All parties have had opportunity to submit written representations and those representations are open to all to view.

The examiner has the ability to call a hearing for the purposes of receiving oral representations about a particular issue in any case where the examiner considers that the consideration of oral representations is necessary to ensure adequate examination of the issue or a person has a fair chance to put a case.

The calling of a hearing can have the advantage of enabling clarification of an issue where this is necessary but can have the disadvantage of making the examination less accessible. Personal health issues, work commitments, caring responsibilities, or holidays can limit ability to attend proceedings.

In reviewing the written representations I have not seen any requests for a hearing. I am of the opinion that all parties have had full opportunity to register their views and put their case forward. There are no issues including those arising from representations in respect of which I require clarification. I took the decision that a

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<sup>7</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

<sup>8</sup> Paragraph 10(6) Schedule 4B Town and Country Planning Act 1990

<sup>9</sup> Section 38A(2) Planning and Compulsory Purchase Act 2004

<sup>10</sup> Section 38B(1)(a) Planning and Compulsory Purchase Act 2004

<sup>11</sup> Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

<sup>12</sup> Paragraph 9(1) Schedule 4B Town and Country Planning Act 1990

hearing was not necessary and proceeded by examination of written representations.

## 4. Basic conditions

An independent examiner must consider whether a neighbourhood plan meets the “Basic Conditions”.<sup>13</sup> To meet the basic conditions and it be appropriate for a neighbourhood plan to be ‘made’ the plan 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 contained in the development plan for the area;
- not breach, and be otherwise compatible with, EU obligations;
- not be likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects<sup>14</sup>

An independent examiner must also consider whether a neighbourhood plan is compatible with the Convention rights.<sup>15</sup> All of these matters are considered in the later sections of this report titled ‘The Neighbourhood Plan – Taken as a whole’ and ‘The Neighbourhood Plan – Neighbourhood Plan policies’.

**Apart from the correction of errors (in particular those presented at Appendix 1 to this report) I have only recommended modifications to the Neighbourhood Plan (presented in bold type) where I consider they need to be made to secure that the plan meets the basic conditions.**

## 5. Unaccompanied visit and background documents

In undertaking this examination I visited the Arundel area in the late afternoon and evening of 22 January 2014 and on the following day. During this visit I was unaccompanied. I have given consideration to each of the following documents in so

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<sup>13</sup> Paragraph 8(2) Schedule 4B Town and Country Planning Act 1990

<sup>14</sup> Prescribed for the purposes of paragraph 8(2)(g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>15</sup> The Convention rights has the same meaning as in the Human Rights Act 1998

far as they have assisted me in considering whether the Neighbourhood Plan meets the basic conditions and is compatible with the Convention rights:

- Arundel Neighbourhood Development Plan 2014-2029 Submission Plan November 2013 (includes a map of the Plan area)
- Basic Conditions Statement (November 2013)
- Consultation Statement (November 2013) and appendices including The State of the Town of Arundel report published January 2013
- Proposals Map and insets A and B (November 2013)
- Site Assessments Report (November 2013)
- Strategic Environmental Assessment (November 2013) and Screening Opinion (28 November 2013)
- Representations received during the publicity period
- National Planning Policy Framework ( March 2012)
- Technical Guidance to the National Planning Policy Framework (March 2012)
- Town and Country Planning Act 1990 (as amended)
- Planning and Compulsory Purchase Act 2004 (as amended)
- Localism Act 2011
- National Parks and Access to the Countryside Act 1949
- English National Parks and the Broads UK Government Vision and Circular 2010 (March 2010)
- State of the South Downs National Park (2012)
- Management Plan for the South Downs National Park (June 2013 draft)
- South Downs National Park Housing Requirements Study Final Report (October 2011)
- South Downs National Park pre-application advice Racing Stables Arundel Castle Estate (18 December 2013)
- Environment Act 1995
- Lower Tidal River Arun Draft Flood Risk Management Strategy (December 2012)

- Planning Policy Statement 5: Planning for the Historic Environment Practice Guide (although the Framework replaced PPS5 the practice guide remains a valid and Government endorsed document)
- Neighbourhood Planning (General) Regulations 2012
- Arun District Council Summer 2013 Local Plan Consultation version
- Arun District Local Plan 2003 (saved policies)
- Arun District Shopping Centre Survey Results (October 2006)
- Arun District Council Strategic Flood Risk Assessment
- Arun District Council Strategic Housing Land Availability Assessment update 2012
- Arun District Council Housing Land Supply Assessment (September 2012)
- Habitats Regulation Assessment for the Arun District Core Strategy (April 2010)

I am most grateful to Arun District Council, co-ordinating with the National Park Authority and the Town Council, for their highly professional and impressively detailed approach to presenting me with a most comprehensive library of documents to assist my independent examination of the Neighbourhood Plan. The approach adopted by Arun District Council is an example of excellent practice that others may wish to take as a model.

## 6. Consultation

It is evident from both the Plan document itself and from the Consultation Statement that the Chairman and Members of the Steering Group have made a thorough and determined effort to ensure that the preparation of the Neighbourhood Plan has captured opinion from all key sections of the local community. The nature and scale of consultation is admirable and has clearly involved considerable time and effort by those volunteers leading the plan preparation process. Almost every member of the local community must be aware of the preparation of the Neighbourhood Plan, and unquestionably they have all had the opportunity to influence the nature and content of the plan.

Community engagement has been at the heart of the plan preparation process through workshops, drop-in sessions, focus groups and surveys. This range of techniques will have ensured that opinions from different viewpoints have been captured. A particularly important step was the community and housing needs



survey of every household undertaken in autumn 2012. More than 300 responses provided views of the local community regarding concerns, needs and wants from the plan. Publicity has been achieved through use of posters; flyers; newsletters; online social media; and the Town Council website. The Steering Group has maintained regular liaison with officers of the two local planning authorities and has actively engaged with landowners.

The State of the Town of Arundel report was published in January 2013. This comprehensive document set out to explain the neighbourhood plan process; area characteristics; and key issues. Following a workshop involving representatives of the main sectors of the community, and a presentation to the Arundel Networking Group, the first draft of the emerging Neighbourhood Plan was prepared in March 2013.

The Pre-Submission version of the plan was the subject of a Regulation 14 six week period of consultation between 28 May and 8 July 2013 that resulted in significant changes to the plan. There followed a further Regulation 14 six week consultation period between 16 September and 27 October 2013 on a Revised Pre-Submission Plan. Amendments were made to the Plan to produce the current Submission Plan that was approved by the Full Town Council on 14 November 2013 and has subsequently been the subject of a Regulation 16 six week consultation period that closed on 16 January 2014. A total of 17 representations were submitted during this latter period all of which I have taken into consideration in preparing this report.

I am of the opinion that publicity and consultation undertaken during plan preparation exceeds requirements and has been exemplary in nature. All parties with an interest in the Neighbourhood Plan have had considerable opportunity to input to the process.

## **7. The Neighbourhood Plan – Taken as a whole**

The plan period of the Arundel Neighbourhood Plan is clearly stated in the introduction section of the submission version to be 1 April 2014 to 31 March 2029 which satisfies that legal requirement.<sup>16</sup> The foreword, written by the Chair of the Steering Group, concisely establishes the context and purpose of the plan. The sections of the plan setting out selected parish statistics and developments are particularly helpful in describing the characteristics of the area and how the town has grown in recent decades.

This section of my report considers whether the Neighbourhood Plan taken as a whole meets EU obligations, habitats and human rights requirements; has regard to national policies and advice contained in guidance issued by the Secretary of State;

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<sup>16</sup> Section 38B(1)(a) Planning and Compulsory Purchase Act 2004

and whether the plan contributes to the achievement of sustainable development. Each of the plan policies is considered in turn in the section of my report that follows this.

### EU obligations, habitats, and human rights requirements

The objective of EU Directive 2001/42 is “to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.” The Neighbourhood Plan falls within the definition of ‘plans and programmes’<sup>17</sup> as the Local Planning Authorities are obliged to adopt the plan following a positive referendum result.<sup>18</sup> Arun District Council has issued a screening opinion dated 28 November 2013. The Neighbourhood Plan clearly states that it has been prepared in accordance with EU Directive 2001/42 on strategic environmental assessment to ensure that its policies have avoided having any significant environmental effects.

A Strategic Environmental Assessment (SEA) report has been prepared to provide an assessment of any significant environmental effects resulting from the objectives and policies of the submission plan. The SEA Report includes:

- An outline of the contents, main objectives of the Neighbourhood Plan, and relationship with other relevant plans or programmes
- The relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the Neighbourhood Plan
- The environmental characteristics of areas likely to be significantly affected
- Any existing environmental problems which are relevant to the Neighbourhood Plan
- The environmental protection objectives, established at international, community or national level, which are relevant to the Neighbourhood Plan and the way those objectives and any environmental considerations have been taken into account during its preparation

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<sup>17</sup> Defined in Article 2(a) of Directive 2001/42

<sup>18</sup> Judgement of the Court of Justice of the European Union (Fourth Chamber) 22 March 2012

- The likely significant effects on the environment, including on local distinctiveness, historic environment, designated environmental sites, flood risk, and land contamination including:

Assessing the impact of the Neighbourhood Plan strategic objectives

Assessing the effect of the Neighbourhood Plan policies

- The measures envisaged to prevent, reduce, and as fully as possible offset any significant adverse effects on the environment of implementing the Neighbourhood Plan
- An outline of the reasons for selecting the alternatives dealt with
- A description of measures envisaged concerning monitoring

The approach set out in the SEA report is consistent with legislative requirements and is proportionate to the scale and nature of the Neighbourhood Plan. The report demonstrates how environmental effects have been considered throughout the plan preparation process, not least through identification of the key features of the local environment in The State of the Town of Arundel report published in January 2013, and through appropriate modification of the emerging plan. I have noted that policy 16 of the Neighbourhood Plan relating to infrastructure projects has not been assessed individually. This minor shortcoming is remedied by my recommended modification in respect of policy 16 presented later in this report removing the policy in question from the statutory development plan. The use of tables to demonstrate how the environmental effects of each policy have been considered individually in turn represents good practice.

The Neighbourhood Plan confirms that an assessment has been made that the policies of the plan will not have any significant effects on a European site under the Conservation of Habitats and Species Regulations. It is stated that the SEA report sets out the necessary information to enable validation of that assessment. I have not seen anything that suggests the Neighbourhood Plan will have a significant effect on a European offshore marine site. No Habitats Regulations Assessment (HRA) screening statement has been produced. Neither the Neighbourhood Plan documentation nor representations received suggest that such a screening is appropriate. There are no habitats that would trigger an assessment in the plan area and indeed the submission plan states “The Neighbourhood Area is not in close proximity to any European designated nature sites (and) so does not require an Appropriate Assessment under the EU Habitats Regulations.” Natural England is satisfied that significant effects on Natura 2000 sites arising from the submission plan are unlikely.

I have given consideration to the European Convention on Human Rights and in particular to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first

Protocol (property).<sup>19</sup> I have seen nothing in the submission plan that indicates any breach of the Convention. Although no equalities impact assessment has been undertaken the Neighbourhood Plan would appear to have neutral or positive impacts on groups with protected characteristics.

I conclude that the neighbourhood plan:

- is compatible with the Convention rights
- does not breach, and is otherwise compatible with, EU obligations
- is not likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects

#### Regard to national policies and advice contained in guidance issued by the Secretary of State, and contribution to the achievement of sustainable development

The section of the Neighbourhood Plan setting out community views and the wider consultation statement clearly demonstrate that the plan has a depth of support in the local community. The Vision that is presented in the plan is comprehensive, clear and positive highlighting the status of the town and its role as a destination at the edge of the South Downs National Park.

The National Park Authority has suggested the word “gateway” is inserted into the Vision sentence as the vast majority of the historic town is not within the National Park boundary. I agree this would more accurately reflect Arundel town’s location in contributing to the setting of the National Park and I would encourage such a change but I am unable to include this in my recommended modifications as it would not relate to the meeting of the basic conditions.

The Vision identifies the need to protect and enhance special heritage assets whilst recognising change will occur including: modest housing growth; strengthening of services, facilities and the economic base; and through infrastructure investment. The Neighbourhood Plan includes measures that develop the theme of each of the following six objectives:

- Objective 1 relating to heritage assets and the special character of the area
- Objective 2 relating to mix, type and location of housing delivery
- Objective 3 relating to community and cultural facilities
- Objective 4 relating to the role of the town centre
- Objective 5 relating to reduction of harmful traffic impact

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<sup>19</sup> The Human Rights Act 1998 which came into force in the UK in 2000 had the effect of codifying the protections in the European Convention on Human Rights into UK law.

- Objective 6 relating to environmental issues

The National Park Authority contends objective 1 should recognise locally important heritage assets and that the first measure to objective 1 currently conflicts with the Framework by stating “no development permitted that is detrimental to any heritage asset or its setting”. I consider that both of these points have merit in that the Framework requires heritage assets to be protected according to their significance and recognises both designated (including nationally listed buildings) and non-designated heritage assets (locally identified and listed). The significance of a heritage asset should be assessed against the potential harm a development may have on an asset or its setting.

The second measure of objective 3 may mislead a reader to think that the Neighbourhood Plan can designate assets of community value. This matter is dealt with in more detail in respect of consideration of policy 10 later in this report however modification of the wording of the measure is recommended here in order to clarify the role of the Neighbourhood Plan.

Objective 4 refers to “independent goods” the meaning of which is uncertain. Legitimate decisions in respect of development proposals will not directly influence the measurable outcome in respect of “continued dominance of independent retail and service providers in the town centre.” The nature of ownership of an operation does not offer a basis for development management decision taking. Policies must relate to the development and use of land. The inclusion of this measure creates an impression that the Neighbourhood Plan will directly contribute to continued dominance of independent providers when it will not. The Framework does however state that planning policies should plan positively for the provision and use of community facilities such as local shops and local services to enhance the sustainability of communities and residential environments.<sup>20</sup>

The National Park Authority contends that improvements to the A27 should not be included as a measure of objective 5 as the measures are linked to the performance monitoring framework of the Neighbourhood Plan and there is little value in identifying measures which the Neighbourhood Plan cannot directly control. The Neighbourhood Plan supports proposals for the implementation of an A27 improvement scheme, which is a matter I return to when considering policy 6. Whilst I find it acceptable for the Neighbourhood Plan to include support for proposals for a scheme of huge local significance, the Neighbourhood Plan must not make provision for such a scheme that is excluded development.<sup>21</sup> In order to avoid any confusion in this respect I recommend the measure is modified.

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<sup>20</sup> Paragraph 70 National Planning Policy Framework 2012

<sup>21</sup> Section 38B(1)(b) Planning and Compulsory Purchase Act 2004

**Recommended modification 1 (objectives and measures):**

**Objective 1 should be amended to read “To maintain and enhance the nationally and locally important heritage assets and special character of the town and its setting.”**

**The first measure of objective 1 should be amended to read “Conflict between the conservation of a heritage asset and any aspect of a development proposal avoided or minimised.”**

**The second measure of objective 3 should be amended to read “assets of community value identified.”**

**The word “independent” should be deleted from objective 4, and the first measure of objective 4 should be amended to refer to continued dominance of “local retail and service provision in the town centre.”**

**The first measure of objective 5 should be amended to read “Improvements to the A27 encouraged.”**

At the heart of the Framework is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision-taking.<sup>22</sup> Apart from the matters I have raised the vision and objectives are consistent with, and have regard to, national policies and advice and illustrate how the Neighbourhood Plan aims to contribute to the achievement of sustainable development. The vision and objectives, modified as recommended, sit comfortably with the Framework aims of delivering a wide choice of high quality homes; of ensuring the vitality of town centres; of promoting sustainable transport; of meeting the challenge of climate change and flooding; of conserving and enhancing the historic environment; and promoting healthy communities.

I am particularly impressed with the intention that the objectives have been formulated to accord with the strategic objectives of the Arun District Council Summer 2013 Local Plan Consultation version and the South Downs National Park purposes as they relate to Arundel Parish. This local alignment of objectives is testimony to co-operative working and a strong sense of common purpose that will be helpful in the achievement of appropriate development.

The forward to the Neighbourhood Plan states “[The Neighbourhood Plan] enables us in the community to play a much stronger, positive role in shaping the area in which we live and work and in supporting new development proposals”. There is clearly evidence of regard being given to national policy, in particular for neighbourhoods to plan positively to support development, as set out in the Framework. Additionally the consideration of matters necessitated by the

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<sup>22</sup> Paragraph 14 National Planning Policy Framework 2012

preparation of the Strategic Environmental Assessment has provided a further platform to successfully demonstrate that the Neighbourhood Plan contributes to the achievement of sustainable development.

I find that subject to the modifications I have recommended, the Neighbourhood Plan, taken as a whole, has regard to national policies and advice contained in guidance issued by the Secretary of State and contributes to the achievement of sustainable development. I examine the detail of each policy of the Neighbourhood Plan in turn later in this report.

### General conformity with the strategic policies contained in the Development Plan for the area

The Framework states that the ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans should not promote less development than set out in the Local Plan or undermine its strategic policies.<sup>23</sup>

Statutory weight is given to neighbourhood development plans that are in general conformity with the strategic policies of the development plan for the local area, and have appropriate regard to national policy. This ensures neighbourhood plans cannot undermine the overall planning and development strategy set out in the development plan for the local area.

The Development Plan consists of:

- The adopted Arun District Local Plan, 2003 (saved policies edition)
- The adopted West Sussex Minerals Local Plan, July 2003 (saved policies edition)
- The West Sussex Waste Local Plan Revised Deposit Draft, July 2004)

The Minerals and Waste Local Plans do not appear to impact in any particular way on the Neighbourhood Plan and the Neighbourhood Plan does not include matters that relate to policies of those plans. Additionally Minerals and Waste are excluded matters for the purposes of policy making in Neighbourhood Plans. Indeed I will take this opportunity to confirm that the Arundel Neighbourhood Plan does not relate to any excluded matters other than reference to the A27 which is a matter subject to a

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<sup>23</sup> Paragraph 184 National Planning Policy Framework 2012

recommended modification already identified and further considered in respect of policy 6 dealt with later in this report.<sup>24</sup>

As the Adopted Arun District Local Plan, 2003 (saved policies edition) predates the Framework, the Framework takes precedence where there is a conflict. Policies not saved cannot now be used in determining planning applications nor be taken into account when assessing whether a Neighbourhood Plan is in general conformity with the strategic policies of the Development Plan. Whilst the Neighbourhood Plan lists a number of saved policies that are considered to be of “specific relevance to the Neighbourhood Plan”<sup>25</sup> the Basic Conditions require assessment whether a Neighbourhood Plan is “in general conformity with strategic policies” contained in the Development Plan for the area. That Plan is the Adopted Arun Local Plan, 2003 (saved policies edition) and it is the strategic policies of that plan that I have made the assessment against. I conclude that subject to the recommended modifications made in this report the Neighbourhood Plan is in general conformity with the strategic policies contained in the Development Plan for the area.

The South Downs National Park Authority became the planning authority for the newly created South Downs National Park (SDNP) in April 2011. The responsibility for planning for the area of the SDNP was previously covered by 12 different local planning authorities. The South Downs National Park Local Plan will be the first time that the area of this National Park will be planned for as a single entity. The South Downs National Park Local Plan, and the Arun District Council Summer 2013 Local Plan consultation version, are emerging Local Plans which when ultimately adopted, will provide an up to date planning policy framework for the neighbourhood area.

The Neighbourhood Plan preparation process has been proceeding through its necessary stages since the formation of the Steering Group by the Town Council in October 2011. The two tiers of plan making have been advancing in parallel. The Neighbourhood Plan preparation process has given consideration to the emerging Local Plans and that is good practice. The emerging Local Plans have some way to go to reach adoption. There is no statutory requirement for Neighbourhood Plan preparation to be held up awaiting completion of the preparation processes of the Local Plans and there is no legal requirement to test the Neighbourhood Plan against emerging policy.

### Monitoring and review

The Neighbourhood Plan contains a commitment to ongoing annual monitoring and a proposal that the Town Council will formally review the plan on a five year cycle, or to coincide with the review of the Arun Local Plan if this cycle is different. This

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<sup>24</sup> as set out in section 61K of the Town and Country Planning Act 1990 (as amended)

<sup>25</sup> The National Park Authority has recommended that policy DEV18 should be added to the list.



approach represents good practice and will ensure that the Neighbourhood Plan remains up to date, relevant, and effective in encouraging and shaping appropriate development. The reference in paragraph 3.7 of the Submission Plan should however be to the two emerging Local Plans that will apply in the area. I have not however made a recommendation for modification of the Neighbourhood Plan in this respect as it is not necessary to meet the basic conditions.

## **8. The Neighbourhood Plan – Neighbourhood Development Plan policies**

The Neighbourhood Plan includes sixteen policies. The first two policies are referred to as general policies and the others are categorised as: housing policies; transport policy; community facility policies; environment policies; retail policies and infrastructure projects. If to any extent a policy set out in the Neighbourhood Plan conflicts with any other statement or information in the plan, the conflict must be resolved in favour of the policy. Given that the policies have this status, and if the Neighbourhood Plan is made they will be utilised in the determination of planning applications and appeals, I have examined each policy individually in turn. Some policies are similar to those in the emerging Arun Local Plan. Such duplication does not present a barrier to the Neighbourhood Plan meeting the basic conditions.

### **Policy 1: The presumption in favour of sustainable development**

This policy seeks to establish how the presumption in favour of sustainable development will be applied locally. The wording of the policy draws heavily on paragraphs 12 and 14 of the Framework. The policy includes an indication how the presumption will be applied locally in that it commits the Town Council and the Local Planning Authorities to adopt a proactive approach to development management, working with project proposers and stakeholders to formulate proposals that can be granted planning permission. The local planning authorities have raised no objection to being party to this co-ordinated positive joint approach. This policy meets the basic conditions.

### **Policy 2: A spatial plan for the town**

This policy seeks to direct future housing, economic and community-related development to be located in the town of Arundel. The South Downs National Park has been recognised as a nationally important and diverse area with outstanding natural beauty and rich cultural heritage. The National Parks and Access to the Countryside Act 1949 enabled the creation of National Parks and sets out the

statutory purposes of all National Parks. The Environment Act 1995 adds to these purposes, a duty for all National Parks. The purposes and duty are as follows:

- *Purpose 1* To conserve and enhance the natural beauty, wildlife and cultural heritage of the area;
- *Purpose 2* To promote opportunities for the understanding and enjoyment of the special qualities of the area;
- *Duty* In pursuing the two purposes above, the authority shall seek to foster the economic and social well-being of local communities within the National Park.

Notwithstanding the fact that limited parts of the town are situated within the National Park boundary the policy to direct development to be located in the town clearly has regard for national policy and guidance relating to National Parks. Indeed the policy will avoid harm to the natural beauty, wildlife, and cultural heritage of those other parts of the plan area outside the town, and not located in the National Park, that also have special features.

The National Park Authority has made representation that the Neighbourhood Plan makes insufficient reference and emphasis to the National Park context. I agree with this point and consider that additional clarity in this regard will assist in the formulation of appropriate development proposals and in the assessment of proposals within the wider community. There is a general duty on all public bodies to have regard to the two statutory purposes of National Parks.<sup>26</sup>

In order to meet the basic conditions I recommend modification of the Neighbourhood Plan so that it more clearly demonstrates it has regard to national policy and guidance issued by the Secretary of State in respect of the National Park context.

The supporting text that follows policy 2 states, “To avoid inappropriate new development that may adversely affect the setting of the town and of its conservation area and wealth of heritage assets, the policy also requires the re-use of vacant, under-utilised and derelict previously used land.” Whilst there is a likelihood future housing, economic and community-related development will re-use vacant, under-utilised and previously developed land the policy does not include those requirements.

The policy directs development to be located in the town of Arundel. Apart from a reference in paragraph 4.11 relating to policy 3 Housing Supply, and a partial “Built-up area boundary” included on Proposals Map Inset B, the town of Arundel area is not defined. It is possible the policy is referring to the built-up area boundary definition in the Arun Local Plan 2003. Policy 2 would not provide decision makers with clear guidance whether or not land is in the town. The Framework requires the

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<sup>26</sup> As required by Section 11A of The National Parks and Access to the Countryside Act 1949.

planning system to “provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency”.<sup>27</sup> Inclusion of a spatial definition of the town of Arundel on the Proposals map would assist in the resolution of development issues at pre-application stage and help achieve the seamless relationship between decision-taking and plan-making envisaged in the Framework.

### **Recommended modification 2 (policy2):**

**Policy 2 should be extended adding “Great weight will be given to conserving landscape and scenic beauty, and the conservation of wildlife and cultural heritage within the South Downs National Park.”**

**The supporting text to policy 2 should include reference to the purposes and duty of National Parks; paragraphs 115 and 116 of the Framework; and signposting to the English National Parks and the Broads: UK Government Vision and Circular 2010.**

**In paragraph 4.6 delete “also requires” and insert “is designed to encourage”.**

**A spatial definition of the town of Arundel should be added to the Proposals Map.**

### **Policy 3: Housing supply**

This policy provides for the development of up to 90 homes in the plan period; and seeks to resist proposals for housing development that are not windfall sites or not provided for in policies 4 and 5; and seeks to direct development to previously developed land within or adjoining the designated built-up area boundary of Arundel.

The Arun Local Plan 2003 (saved policies edition) does not disaggregate District-wide housing supply figures to specify a quantum for individual parishes. The Development Plan does not provide an up-to-date strategic policy against which to assess the Neighbourhood Plan target. The emerging Arun Local Plan makes provision for at least 50 new homes for the part of the Neighbourhood Plan area outside the National Park during the plan period. This figure may be varied as Local Plan preparation progresses however it represents the best guidance available and reflects collaborative working between the Steering Group and the District Council. The National Park Local Plan has not reached the stage of specific targets for numbers of homes.

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<sup>27</sup> Paragraph 17 National Planning Policy Framework 2012

The National Park Authority considers the part of the sentence in paragraph 4.10 which states “the administrative boundary between the two authorities is arbitrary in respect of defining local housing opportunities” is in conflict with the Framework. Whilst it is acknowledged that some of the housing need in the plan area could possibly originate in the part of the plan area in the National Park, the acceptability of development proposals must always have regard to National Park planning policy.

The wording of the policy includes the term “the designated built-up area boundary of Arundel.” This may be a reference to the boundary defined in the Arun Local Plan 2003. I have dealt with this issue in respect of policy 2 where I have recommended a spatial definition of the town of Arundel is added to the Proposals Map. The use of a consistent term to describe that boundary throughout the Neighbourhood Plan would provide a high degree of predictability as required by the Framework.

The National Park Authority contends that the statement “The Neighbourhood Plan will resist proposals for housing development that are either not considered as windfall schemes or for which provision has not been made in policy 4 or policy 5” is unclear as any development coming forward would either be a windfall development or a development on an allocated site. Annex 2 to the Framework is of some assistance providing a definition of windfall sites as those “that normally comprise previously developed sites that have unexpectedly become available”. Sites can therefore be categorised as either allocated or supported by the Neighbourhood Plan; windfall; or sites considered in plan preparation but not allocated. It is this third category of site that the policy seeks to resist. Arun District Council has also commented that minor wording modifications are made to aid clarity.

At the heart of the Framework is a presumption in favour of sustainable development. All plans should be based upon and reflect this presumption. Neighbourhood plans should plan positively to support local development. The use of the term ‘up to 90 homes’, although described as a target, has the effect of establishing a maximum number. Strict adherence to a specified number creating a ceiling or cap on development represents an inappropriate constrained approach to sustainable development that may potentially be proposed during the plan period. The wording of policy 3 is in conflict with the presumption in favour of sustainable development established in the Framework. In order to meet the basic conditions I recommend policy 3 should be modified. The basis of allocation or support is retained and proposals will remain subject to the limitations applied by national and local policy in addition to the Neighbourhood Plan policies.

### **Recommended modification 3 (policy 3):**

**The first paragraph of policy 3 should be modified to read “The Neighbourhood Plan provides for the development of a minimum of 60 homes**

for completion in the period from 1 April 2014 to 31 December 2029 on sites allocated and identified for future allocation in policy 4; and supported in policy 5; and on windfall sites. Projected actual dwelling completions, which may result in delivery of a higher number of dwellings, will be refined on a site by site basis as detailed design schemes are prepared.”

In the second paragraph of policy 3 after “allocated” add “, identified for future allocation,”

## **Policy 4: Housing site allocations and Policy 5: Land at Fitzalan Road**

Policy 4 allocates sites at River Road, Ford Road and Castle Stables for housing development subject to specified development principles and re-affirms the affordable housing policies of the two local planning authorities. Policy 5 seeks to support proposals for housing development at Fitzalan Road subject to specified development principles.

In considering policy 3 I have concluded the use of the term “up to” by imposing a ceiling or cap on total development does not have regard to national policy in which there is a presumption in favour of sustainable development. It is however understandable that those people preparing a neighbourhood plan will seek to estimate individual site capacities in order to appreciate whether or not provision will meet local need. Actual numbers of homes achieved on sites will be determined on a site by site basis when detailed schemes are prepared and assessed taking into consideration site constraints.

In order to have regard to national policy as set out in the Framework indicative capacities, instead of a cap, should be stated in respect of the River Road, Ford Road and Fitzalan Road sites. I note that Arun District Council has in its Strategic Housing Land Availability Assessment assumed 15 dwellings for the Ford Road site and considers that this figure should be used rather than the higher figure presented in the Neighbourhood Plan. I agree with that more cautious approach offering greater certainty of delivery. Particular circumstances in respect of the Former Castle Stables site, which I consider below, have led me to conclude that a quantum of indicative capacity should not be stated in that instance.

A representation has been made that the Ford Road and Fitzalan Road sites should be deleted on the grounds of deliverability constraints and that the River Road and Castle Stables sites ought to be deleted on the basis they do not require allocation as their development is acceptable and would be classified as windfalls should permission be granted. The representation proposes that instead “The Horse Field”

(referred to in policy 11 of the Neighbourhood Plan as the Horse's Field, rear of Pearson Road) should be allocated and compares the relative merits of that site and sites allocated and supported in the Neighbourhood Plan. The comparison of the merits of sites allocated and supported in the Neighbourhood Plan with other sites is not within the remit of this independent examination. I am to examine the Neighbourhood Plan against the Basic Conditions and Convention Rights only.

The representation referred to does however raise the issue of flood risk and how this has been dealt with in plan preparation. The Framework states "inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere." The Framework states that Local Plans should be supported by Strategic Flood Risk Assessment, apply a Sequential Test, and if necessary apply an Exception Test. The Framework and Technical Guidance issued with the Framework is silent with respect to neighbourhood plans in this respect.

The Framework does however state that "a sequential approach should be used in areas known to be at risk of any form of flooding"<sup>28</sup> and "if following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:

- It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- A site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and ,where possible will reduce flood risk overall.

Both of these tests will have to be passed for development to be allocated or permitted."<sup>29</sup>

The Site Assessments Report provides background to site selection and when read in association with the reasoned justification to policies 3, 4 and 5 demonstrates the Neighbourhood Plan has regard to national policy relating to flood risk and the application of the Sequential Test. I am further satisfied that the information presented demonstrates that where the Exception Test is required in respect of the Fitzalan Road site, the first element of the test is passed. The approach adopted of relying on future site-specific flood risk assessment is acceptable for the purposes of policy 5 supporting development at Fitzalan Road.

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<sup>28</sup> Paragraph 101 National Planning Policy Framework 2012

<sup>29</sup> Paragraph 102 National Planning Policy Framework 2012

The Ford Road site includes flood zone 1, flood zone 2 and flood zone 3 lands, which is a matter that should be clarified in the Neighbourhood Plan. If the site was defined, and drawn on the Proposals Map, to exclude flood zone 3 land the Exception Test would not be required to be applied. In order to demonstrate regard to national policy, the Ford Road site as currently spatially defined on the Proposals Map, would have to be positioned as part of policy 5 as a supported site, which I would have no objection to, or if retained within policy 4 would have to acknowledge the need for the Exception Test to be passed prior to allocation. I have adopted this latter approach in my recommended modification.

The National Park Authority has identified a number of issues regarding the Castle Stables site allocation that it considers affect the ability of the Neighbourhood Plan to meet the basic conditions but has expressed the view these concerns may be dealt with through modification to the Neighbourhood Plan at examination stage.

The Castle Stables site is undoubtedly an environmentally sensitive location in the South Downs National Park; and within the Arundel Conservation Area; and within the registered parks and gardens of Arundel Castle; and including a Grade II listed building (the Deer Barn attached to the south-east end of the stables); and including the stables that are a heritage asset and which could also be Grade I curtilage listed buildings.

The National Park Authority requires a historic buildings analysis allowing it to properly establish the impact of a conversion on the significance of the heritage assets. The National Park Authority is particularly concerned about an expressed quantum for the site and that even an “up to” a certain number of units suggestion creates an expectation which may not be possible to realise. Notwithstanding the allocation, the National Park Authority would still require demonstration that a commercial use of the stables is not viable. With respect to new build units the National Park Authority would require evidence of a sequential assessment exercise to demonstrate that the housing need could not be met in a more appropriate location. The National Park Authority considers that in accordance with the adopted Arun District Local Plan 2003, the Castle Stables site would be subject to rural exceptions site policy requiring as high a percentage of affordable housing possible subject to viability and impact on the significance of the heritage assets.

The reasoned justification set out in the Neighbourhood Plan to support the Castle Stables allocation recognises heritage assets both on the site and nearby. The Neighbourhood Plan refers to the important status of the Castle and its setting within the South Downs National Park requiring a reuse and redevelopment scheme to be of the highest quality. Whilst reference is made to conserving the special historic and architectural character of the Castle and listed stable building this does not have regard for the approach set out in the Framework. In particular the Framework

recognises the significance of non-designated heritage assets, which most of the stone stable buildings are, and promotes the desirability of sustaining and enhancing the significance of heritage assets.

The national guidance issued by the Secretary of State set out in the Planning Policy Statement 5: Planning for the Historic Environment Practice Guide, which remains a valid and Government endorsed document, identifies a number of potential heritage benefits that could weigh in favour of a proposed scheme. These include: reduction or removal of risk to a heritage asset; securing the optimum viable use of a heritage asset in support of its long term conservation; and it is an appropriate design for its context.

I agree with the National Park Authority that a historic buildings analysis considering the significance of the stables would be a prerequisite to detailed design work to determine an appropriate form of conversion including any sub-divisions to form dwellings. A historic buildings analysis would also assist in establishing the appropriateness of new build development on the footprint of the modern wooden stable structures, immediately adjacent to the listed Deer Barn. In this latter respect the Framework recognises the benefits of enabling development that secures the future conservation of a heritage asset can outweigh the disbenefits of departing from planning policies.

The Steering Group has submitted that the Castle Stables is not a rural exceptions site as there is no effective break between the site and the defined built-up area. Whilst the Arun Local Plan exceptions site policy precludes open market provision this is superseded by the Framework. The Framework “states Local Planning Authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs.”<sup>30</sup> The National Park Authority states that “whilst this site is one which would be treated as an exceptions site by planning policy, the proportion of affordable housing which can eventually be delivered has to be balanced against cultural heritage considerations which might support a wider range of tenures in order to achieve a scheme of the highest quality which minimises harm on the significance of the heritage assets. For example, the type and size of housing may dictate the degree of alterations required to the buildings.”

The Neighbourhood Plan in the reasoned justification to policy 4 identifies the site of the modern, wooden stables, adjacent to the Deer Barn as being able to be redeveloped for “up to 4 dwellings”. The National Park Authority considers that the wooden stables are not worthy of conversion and further sequential work is required to assess whether the new build element could either be accommodated on a site outside the National Park or in a less sensitive site in Arundel in the National Park.

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<sup>30</sup> Paragraph 54 National Planning Policy Framework



The Framework requires applicants to describe the significance of any heritage assets affected by a development, including any contribution made by their setting. The National Park Authority considers that the potential of the site to Arundel's housing supply can be acknowledged, while ensuring there are robust safeguards in place against inappropriate development which may harm the heritage assets particular significance. The Steering Group has made representation that the entire allocation site should be treated as a single planning unit. My visit leads me to believe the site has most recently been occupied and used for a single operation.

Policy 4 allocates the Castle Stables site for residential use setting a framework for determination of proposals but does not remove the need for planning permission and any heritage consents. The National Park representations to some extent relate to material considerations that would be relevant to determination of proposals. The National Park Authority has issued officer pre-application advice,<sup>31</sup> whilst not prejudicing nor binding upon future decisions of the National Park Authority, does establish the principal of development as likely to be acceptable subject to the other material considerations including the significant constraint of the listing. The advice also states that inclusion within the Neighbourhood Plan would be appropriate. Whilst I understand the need for those people preparing the Neighbourhood Plan to estimate the number of dwellings being provided for, in this instance, given the request of the National Park Authority, I recommend leaving this open which also leaves open the question of whether the allocation represents a major development in a National Park.<sup>32</sup>

Arun District Council has commented that should the proposed number of homes achieved on the site be lower than the maximum stated in policy 4 then it is felt that the Neighbourhood Plan would still be able to meet its parish allocation as given in the ADC Summer 2013 Local Plan Consultation version. I have already dealt with the issue of emerging Local Plans.

The policy is consistent with those aspects of the Framework that seek to conserve and enhance the historic environment, and deliver a wide choice of high quality homes. The spatial definition of the Arundel built up area to be added to the Proposals Map in accordance with Recommended Modification 2 of this report could be drawn to include the Stables proposed allocation site and intervening existing built development between that site and London Road. Indeed whilst I consider this appropriate, and indeed encourage such an approach, I am unable to recommend this modification as it does not need to be made to secure that the plan meets the basic conditions.

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<sup>31</sup> By letter dated 18 December 2013

<sup>32</sup> Paragraph 116 National Planning Policy Framework 2012

## **Recommended modification 4 (policy 4 and policy 5)**

**Policy 4 should be modified to read “The Neighbourhood Plan allocates the following sites for housing development, as shown on the Proposals Map:**

- i. Land at River Road to be delivered in the period 2014-2019**
- ii. The Former Castle Stables, Arundel Castle to be delivered in the period 2014-2019**

**Land at Ford Road is identified for future allocation through plan review, following the flood risk Exception Test being passed, and subsequently to be delivered in the period 2020-2029**

**These sites will together deliver a minimum of 29 dwellings comprising a mix of dwelling types. Projected actual dwelling completions, which may result in delivery of a higher number of dwellings on these sites, will be refined on a site by site basis as detailed design schemes are prepared.**

**The Neighbourhood Plan will expect proposals for each site to conform to the respective affordable housing policies of the two local planning authorities, and development schemes will need to provide a connection to the sewerage system at the nearest point of adequate capacity as advised by Southern Water.**

**Given the National Park and heritage asset sensitivities of the Former Castle Stables, proposals must include a historic buildings analysis to support the proposed number of dwellings; demonstration that commercial uses for the stables are no longer viable; and a sequential assessment demonstrating new build elements cannot be achieved in a more appropriate location.”**

**In policy 5 delete “up to” and insert “approximately”**

## **Policy 6: Transport, access and car parking**

This policy supports proposals to promote alternatives to car travel; improve cycle and footpath networks; improve traffic management and car parking at local primary schools; improve pedestrian and cycle access from north of the A27 to the town centre and on to Arundel Station; achieve an A27 improvement scheme ; and develop a parking strategy.

The improvement of traffic management at the Arundel Church of England Primary School and at the St. Philip’s Catholic Primary School, even though proposals may

be accompanied by a travel plan, is not a land use policy and cannot be included in the Neighbourhood Plan. The improvement of traffic management at these schools is however a community aspiration of significance and should be registered through inclusion in a non-statutory appendix to the Neighbourhood Plan.

Similarly the development of a parking strategy to manage car parking spaces for residents and visitors is not a land use policy and cannot be included in the Neighbourhood Plan. Production of such a strategy is however also a community aspiration of significance and should be registered through inclusion in a non-statutory appendix to the Neighbourhood Plan.

Provision for improvement of the A27 is excluded development for the purposes of preparation of the Neighbourhood Plan. The Neighbourhood Plan can however encourage improvements to the A27 and indeed does support proposals in this respect. It is not the delivery vehicle for the improvements.

#### **Recommended modification 5 (policy6):**

**Part iii of policy 6 relating to improvement of traffic management and part vi of policy 6 relating to development of a parking strategy should be deleted and transferred to a non-statutory appendix to the Neighbourhood Plan and clearly so titled.**

#### **Policy 7: Victoria Institute**

This policy seeks to support proposals to continue the community or culture use of the Victoria Institute however if it can be clearly demonstrated such uses are no longer financially viable the Neighbourhood Plan would support a change of use to hotel; residential institution; or a dwelling. This policy contributes to the achievement of sustainable development and has regard to national policy in particular the promotion of healthy communities through planning positively for the provision of community facilities. The fall-back position also contributes to the achievement of a sustainable community and is consistent with the components of the Framework relating to building a strong, competitive economy; or promoting healthy communities; or delivering a wide choice of high quality homes. This policy meets the basic conditions.

## **Policy 8: Arundel Lido**

This policy seeks to support proposals for suitable additional leisure and community uses and/or community facilities at the Arundel lido. This policy contributes to the achievement of sustainable development and has regard to national policy in particular the promotion of healthy communities through planning positively for the provision of community facilities. This policy meets the basic conditions.

## **Policy 9: Mill House Farm**

This policy seeks to support, subject to a number of criteria, proposals to repair and re-use Mill House Farm for a non-residential institution use or for an office use. The National Park Authority has commented that the first criterion is in conflict with the Framework. I agree with this point. In order to reflect the Framework this policy should refer to any development being tested against the significance of a non-designated heritage asset.

The National Park Authority contends that the supporting text appears to be too permissive with no evidence of the National Park context having been considered. The acceptability of the landscape impacts of a car park within the National Park can only be established through the provision of appropriate evidence. As worded, the approach conflicts with paragraph 115 of the Framework. I agree it would be helpful to emphasise this aspect of national policy.

The Environment Agency note the site is located in flood zone 3 and as the proposal includes use class D1 which includes uses classified as more vulnerable in the Framework and its associated technical guidance it is essential that the requirements of part iv of the policy are adhered to.

Ten representations raised concerns. Several related in large part to one potential use, namely D1, and in particular that of a day nursery or child care facility. The site is felt to be unsuitable for day nursery use due to traffic generation; disabled access restrictions; child safety; and potential impact on an existing nursery in the town. Representations also more generally referred to unsuitability of parking arrangements; highway safety concerns; flood risk and impact; residential amenity; visual impact in a sensitive location and setting; and planning history.

The policy supports repair and re-use for specified uses. Matters of detail raised in representations would, where they are material planning considerations, be considered at planning application stage. In any case I am only able to recommend modifications to meet the basic conditions. The policy has regard to the Framework

in terms of supporting a prosperous rural economy; conserving and enhancing the historic environment; and promoting healthy communities. Subject to the recommended modification the policy meets the basic conditions.

### **Recommended modification 6 (policy 9):**

**Provision iv of policy 9 should refer to policy 12 (not policy 16) and the first two provisions should be amended to read:**

- i. The proposals retain the significance of the farm building as a non-designated heritage asset**
- ii. Satisfactory off-street parking facilities are achieved that have acceptable landscape impact within the South Downs National Park.**

### **Policy 10: Assets of community value**

The first part of this policy seeks to propose that, a list of what are described as “buildings” are assessed by the local planning authority for designation as Assets of Community Value. The second part of the policy seeks to support proposals that enhance the viability and/or the community value of the assets and resist loss or significant harm to the community value unless lack of financial viability can be clearly demonstrated.

There is a need to modify this policy for a number of reasons. It is legitimate for the Neighbourhood Plan preparation process to provide a mechanism for the community to agree a list of assets that it values. In the Neighbourhood Plan it would be more accurate to describe them as buildings and facilities as they include open air uses such as play areas and allotments. The designation of assets of community value in the plan area will be undertaken by Arun District Council as the appropriate body, which is distinct from the local planning authority. The District Council has established a mechanism to nominate buildings and facilities for consideration and possible designation as assets of community value that is completely separate from neighbourhood plan preparation. The Town Council should put forward the proposals for nomination via the appropriate route for consideration. The designation process which leads, in effect, to a community right to bid is concerned with control through ownership of assets and is not a land use policy. Only land use policies can be included in the Neighbourhood Plan. This will require modification of the policy.

The Framework states that planning policies and decisions should “plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.” The Framework also refers to “guarding against

unnecessary loss” and “retention for the benefit of the community.” The second part of the policy if modified to refer to any assets designated as assets of community value by the District Council would meet the basic conditions.

#### **Recommended modification 7 (policy10):**

**The first paragraph of policy 10 and the list of buildings (and facilities) should be deleted and transferred to a non-statutory appendix to the Neighbourhood Plan and clearly so titled.**

**The final paragraph of the policy should be retained and the first reference to “the assets” should be replaced with the words “any assets designated by Arun District Council as assets of community value under the Localism Act 2011.”**

#### **Policy 11: Local green spaces**

This policy designates three locations as Local Green Spaces and seeks to resist development on those areas. The Framework makes provision for neighbourhood plans to identify for special protection green areas of particular importance to local communities and rule out new development other than in very special circumstances provided designation:

- is consistent with the local planning of sustainable development;
- compliments investment in sufficient homes, jobs and other essential services;
- relates to green space that is in reasonably close proximity to the community it serves;
- relates to a green area that is demonstrably special to a local community and holds a particular local significance and;
- relates to a green area that is local in character and is not an extensive tract of land

The proposal has been supported by Natural England. Southern Water considers that the policy is unduly restrictive and could prevent the delivery of utility infrastructure. I agree that paragraph 76 of the Framework recognises the provision of utility infrastructure can represent very special circumstances. The Framework states that local policy for managing development within a Local Green Space should be consistent with policy for Green Belts. For the policy to ‘have regard’ to national policy it will be necessary to effect a modification.

Representations have been made in respect of the Horse’s Field on the basis that there is no evidence or justification other than to frustrate potential development and

prevent delivery of a sustainable site; the site has never been available to the public for amenity purposes or otherwise; and has no special ecological interest.

I have noted the representations made and visited the three areas concerned namely 'The Horse's Field, rear of Pearson Road; Canada Road Playground; and Herrington Fields, off Fitzalan Road. In particular I note the Neighbourhood Plan states that the Horse's Field "is popular with local people for walking; some of its trees are of historic importance in identifying the line of an old route to Arundel Castle from the west and the adjoining ancient woodland is of special biodiversity interest." I also note the observation in the reasoned justification to policy 10 referring to earlier representations. On my inspection of the area I noted the worn surface to footpaths through and adjacent to the Horse's Field and the extensive views of the town centre across these fields. I find all three areas meet the criteria for designation.

#### **Recommended modification 8 (policy11):**

**Policy 11 should be extended to add "other than in very special circumstances, for example, it is essential to meet specific necessary utility infrastructure needs and no alternative feasible site is available."**

#### **Policy 12: Flood defences**

This policy seeks to support proposals for new flood defences and safeguard land designated by the Environment Agency as required for flood defence works. This policy contributes to the achievement of sustainable development and meets the basic conditions.

#### **Policy 13: Buildings and structures of character**

This policy seeks to designate buildings and structures as "Buildings or Structures of Character" and resist development that will either result in loss or alteration, extension or other development in a manner that would adversely affect its appearance or setting. This policy does not reflect the approach required in the Framework.

The Framework does not include the term 'buildings or structures of character' but utilises the terms designated heritage assets and non-designated heritage assets. The Framework states, "The effect of an application on the significance of a non-

designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of harm or loss and the significance of the heritage asset.” The use of the term ‘designates’ in policy 13 is misleading in the context of the Framework. I recommend that the wording of this policy should be modified in order to have regard to national policy and meet the basic conditions.

### **Recommended modification 9 (policy 13):**

**Policy 13 should be modified to read: “The Neighbourhood Plan identifies the following buildings and structures as locally important heritage assets: [List of properties]. The effect of a proposal on the significance of these non-designated heritage assets will be taken into account in determining an application in order to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.”**

The local planning authorities will no doubt give consideration to Paragraph 185 of the Framework that states local planning authorities should avoid duplicating planning processes for non-strategic policies where a neighbourhood plan is in preparation.

The National Park Authority has suggested that mapping the properties would be helpful. Whilst I agree with this suggestion I have not proposed a modification as it would not be necessary to ensure the Neighbourhood Plan meets the basic conditions.

### **Policy 14: Arundel Town Centre**

This policy seeks to support proposals for new retail development in designated primary and secondary shopping frontages and resist changes of use from retail to other uses within the primary frontages until a threshold is reached. It is not within the role of this examination to test the soundness of the Neighbourhood Plan, in this case in respect of the selected 80% threshold. Indeed the Framework provides for local people, and their accountable councils, to produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.

The final part of policy 14 supports temporary use of empty shop premises for start-up retail businesses or other forms of ‘pop-up’ shops. This aspect of the policy would not provide a clear framework for development management decision making. Temporary use is not defined and start-up and pop-up are not categories of retail operation that can be distinguished in land use terms. The policies of the



Neighbourhood Plan must relate to the development and use of land. The policy does not enable the shaping and directing of development role that the Framework prescribes for neighbourhoods. The proposals are however a community aspiration of significance and should be registered through inclusion in a non-statutory appendix to the Neighbourhood Plan.

**Proposed modification 10 (policy14):**

**The paragraph “The Neighbourhood Plan will support proposals in the designated Primary and Secondary Shopping Frontage area for the temporary use of empty shop premises for start-up retail businesses or other forms of ‘pop-up’ shops” should be deleted from policy 14 and transferred to a non-statutory appendix to the Neighbourhood Plan and clearly so titled.**

**Policy 15: Business uses**

This policy seeks to support proposals for the development of new B1 business uses and of live-work units provided they are within the built up area boundary of Arundel and meet stated criteria. I have dealt with the built up area boundary issue earlier in this report. The policy will contribute to the achievement of sustainable development reducing the need to travel out of the area for work and has regard to the component of the Framework concerned with building a strong, competitive economy. This policy meets the basic conditions.

**Policy 16: Infrastructure projects**

This policy seeks to prioritise town centre public realm works in the use of those Community Infrastructure Levy funds allocated by the local planning authority. Guidance relating to Community Infrastructure Levy enables the use of a proportion of receipts to be controlled by local communities in areas where a neighbourhood development plan has been ‘made’. The policy should be modified to clarify that it relates to this element of the Community Infrastructure Levy only.

Public realm works in the town centre would be consistent with the Framework in respect of ensuring the vitality of town centres, and conserving and enhancing the historic environment and will contribute to the achievement of sustainable development. However the allocation of finance is not a land use policy and should not be included in the statutory development plan but the issue is one of local

significance and should be included in a non-statutory appendix to the Neighbourhood Plan.

I have previously referred to my observation that policy 16 of the Neighbourhood Plan relating to infrastructure projects has not been assessed individually in the Strategic Environmental Assessment. This minor shortcoming is remedied by my recommended modification removing the policy in question from the statutory development plan.

### **Recommended modification 11 (policy 16):**

**Add “to Arundel Town Council” after “allocated” in policy 16.**

**Policy 16 and supporting text should be deleted and transferred to a non-statutory appendix to the Neighbourhood Plan and clearly so titled.**

## **9. Summary and Referendum**

The examination will be of great interest locally in the Arundel area given the widespread participation by all sectors of the community in the Neighbourhood Plan preparation process. A huge number of hours of work have been contributed voluntarily to achieve a sustainable plan for Arundel.

I consider the Neighbourhood Plan closely reflects views held widely in the local community and establishes, subject to the modifications I have recommended, a realistic and achievable vision for development and change within the plan area.

I am satisfied that the Neighbourhood Plan<sup>33</sup>:

- is compatible with the Convention rights, and would remain compatible if modified in accordance with my recommendations;
- does not breach, and is otherwise compatible with, EU obligations; and would continue to not breach and be otherwise compatible with EU obligations if modified in accordance with my recommendations;
- meets all the statutory requirements, in particular those set out in paragraph 8(1) of schedule 4B of the Town and Country Planning Act 1990 and, subject to the modifications I have identified, meets the basic conditions namely:

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<sup>33</sup> The definition of plans and programmes in Article 2(a) of EU Directive 2001/42 includes any modifications to them

- has regard to national policies and advice contained in guidance issued by the Secretary of State;
- contributes to the achievement of sustainable development;
- is in general conformity with the strategic policies contained in the development plan for the area;
- does not breach, and is otherwise compatible with, EU obligations
- not be likely to have a significant effect on a European site or a European offshore marine site, either alone or in combination with other plans or projects<sup>34</sup>

**I am pleased to recommend to Arun District Council and South Downs National Park Authority that the Arundel Neighbourhood Development Plan 2014-2029 should, subject to the modifications I have put forward, proceed to referendum.**

I am required to consider whether the referendum area should extend beyond the Neighbourhood Plan area and if to be extended, the nature of that extension.<sup>35</sup> In all the matters I have considered I have not seen anything that suggests the referendum area should extend beyond the boundaries of the plan area as they are currently defined.

**I recommend that the Neighbourhood Plan should proceed to a referendum based on the neighbourhood area defined by Arun District Council and South Downs National Park Authority on 29 November 2012 and 14 March 2013 respectively.**

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<sup>34</sup> Prescribed for the purposes of paragraph 8(2)(g) of Schedule 4B to the 1990 Act by Regulation 32 The Neighbourhood Planning (General) Regulations 2012 and defined in the Conservation of Habitats and Species Regulations 2010 and the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007

<sup>35</sup> Paragraph 8(1)(d) Schedule 4B Town and Country Planning Act 1990

## Appendix 1: Minor Corrections to the Neighbourhood Plan

The contents page of the submission plan lists item 6 Proposals Map. The Proposals map and inserts should be included in the plan document as without them the Neighbourhood Plan will not provide 'a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.'<sup>36</sup>

I am able to recommend modification of the Neighbourhood Plan in order to correct errors.<sup>37</sup> The Neighbourhood Plan includes a small number of errors that are typographical in nature or arise from updates. I recommend modification as follows:

Paragraph 2.3 line 2 delete 'is' insert 'of'

Paragraph 2.25 line 1 after 'are' insert 'of'

Paragraph 4.15 line 3 delete 'there' insert 'these'

Paragraph 4.22 line 6 should also refer to flood zone 3

Paragraph 4.31 line 13 after 'with' insert 'the'

Policy 6 ii line 1 after 'maintain' insert 'the'

Paragraph 4.33 line 2 delete 'with' insert 'will'

Paragraph 4.34 line 6 after 'under' insert 'the'

Paragraph 4.35 line 6 after 'walking' insert 'surfaces'

Paragraph 4.43 line 6 after 'account' insert 'of'

Paragraph 4.53 line 9 delete 'of' insert 'on'

Paragraph 4.54 line 1 delete 'two' insert 'three'

Paragraph 4.59 line 1 delete 'deliver' insert 'delivery'

Paragraph 4.60 after 'architectural' insert 'interest'

Policy 13 raise 'Hospital, Chichester Road' to previous line

Policy 13 check 21 and 51-63 Ford Road (do not appear in August 2008 version)

After paragraph 4.63 adjust heading to 'Retail and Business policies'

Paragraph 4.68 line 3 delete '6' insert '16'

Policy 15 before 'Live- Work delete 'of'

Policy 16 delete 'priorities' insert 'prioritises'

Paragraph 5.5 line 5 delete 'the policy of'

Proposals Map inset B remove the blue cross hatch shaded area on the property on Mill Road

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<sup>36</sup> Paragraph 17 National Planning Policy Framework 2012

<sup>37</sup> Paragraph 10 (3)(e) of Schedule 4B to the Town and Country Planning Act 1990

The National Park Authority advises the SDNP Local Plan section requires the following factual updates:

- Page 15 – the Issues and Options report is now called the “Options Consultation Document”.
- Page 18 – the first draft of the Local Plan is scheduled to be published in 2015. It is likely the plan will address a fifteen year period but the end date has not yet been determined.
- Paragraph 3.4: - rather than “strategic objectives” of the National Park refer to the Partnership Management Plan 2014-2029, also to be included in Appendix A.

Additionally some of the recommended modifications in this report will necessitate related minor adjustments to the Neighbourhood Plan document.

**Recommended modification 12 (corrections):**

**The proposals map and inserts should be included in the Neighbourhood Plan document and identified errors that are typographical in nature or arising from updates should be corrected.**

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10 February 2014  
REPORT ENDS