

East Meon Neighbourhood Development Plan 2016-20132

Initial Comments of the Independent Examiner

Prepared by

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Introduction

1. As you will be aware I have been appointed to carry out the examination of the East Meon Neighbourhood Plan. I have carried out my initial review of the Plan and most of the accompanying documents that I have been sent. I have yet to visit the village and the surrounding countryside to re-familiarise myself with East Meon, and in particular to review the site allocations, the Local Green Space designations and the changes to the Settlement Boundary. I hope to be able to make that visit in the coming weeks.
2. My initial view is that I should be able to deal with the examination of this Plan by the consideration of the written material but I reserve the right to call for a public hearing, if I consider that it will assist my examination. Based on my preliminary consideration of the plan, there are a number of matters that I would wish to receive further representations from both the Qualifying Body and the Local Planning Authority.

Status of the Development Plan

3. The plan rightly refers to the existing development plan as the East Hampshire Local Plan– Joint Core Strategy and the saved policies of the East Hampshire Local plan– Second Review (2006.) If and when this neighbourhood plan is made, then it too, will form part of development plan.
4. Paragraph 184 of the NPPF is particularly relevant to my thinking. This requires that “neighbourhood plans must be in general conformity with the strategic policies of the local plan... neighbourhood plans should reflect these policies...” However, in the next paragraph it states that “once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the local plan and is brought into force, the policies it contains take precedence over existing non-strategic policies in the local plan for that neighbourhood, where they are in conflict.”
5. The South Downs National Park Authority has given me a provisional view that it is all the policies in the Joint Core Strategy that are the strategic policies and I cannot fault that position.
6. My concern is how would the neighbourhood plan relate to the saved policies of the 2006 Local Plan, which is now, in any event, somewhat out of date and predates the publication of the NPPF.

7. I will illustrate my concern by taking as an example - Policy EM3– Size of Dwelling. This seeks to control the size of replacement dwellings by reference to the number of bedrooms. Policy H16 of the 2006 Local Plan refers to a floor space percentage increase.
8. In effect, an applicant or any decision maker will have to have regard to the policies in 3 separate development plan documents. These are, this neighbourhood plan and the Joint Core Strategy as well as the 2006 saved policies. In the case of a replacement dwelling - Is an applicant expected to be subject to a restriction in floor space of the replacement dwelling or just a restriction as to the number of bedrooms?
9. My interpretation of the situation is, if there is any policy in neighbourhood plan covers a particular topic, that policy will replace the policies in the 2006 Local Plan and I am proposing to make that point explicit in my report.
10. However, I would welcome the views of both the LPA and Qualified Body on this matter. I believe that it is important to give certainty in the planning system to applicants and decision makers, so that they are not faced with a situation where an application meets the requirements of the neighbourhood plan but could fail to comply with the policies in a different development plan document, covering the same issues.

South Downs Local Plan– Preferred Options

11. The South Downs National Park Authority is preparing their local plan. This is currently *an emerging plan*. The published version of the document is still at a relatively early stage in its preparation. The Preferred Option version was published in September 2015 and was the subject to public consultation. That plan may be changed as a result of the consultation process. In addition, it may be modified further by the local plan examiner, as a result of objections made to the Submission Version of the plan. The adoption of the local plan is somewhat off and indeed it may have to be subject to further modifications following future changes in national policy which arise following the publication of the Housing White Paper, for example in the methodology of calculating housing numbers.
12. The issue I am concerned with is that this neighbourhood plan is predicated on seeking compliance with the current version of the emerging local plan. There are instances where in the neighbourhood plan policy makes specific reference to a local plan policy, which is not part of the development plan. That

effectively would enshrine in a development plan (through the made neighbourhood plan) a current version of local plan policy that may change during lifetime of the neighbourhood plan.

13. I would particularly call attention to the Secretary of State's advice contained in the Planning Practice Guidance entitled "Can a neighbourhood plan come forward before an up-to-date local plan is in place "[paragraph 009 reference ID: 41– 009–2016 0211]" I will particularly call attention to the following paragraph

"A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the [basic condition](#). Although a draft neighbourhood plan or Order is not tested against the policies in an emerging Local Plan the reasoning and evidence informing the Local Plan process is likely to be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. For example, [up-to-date housing needs evidence](#) is relevant to the question of whether a housing supply policy in a neighbourhood plan or Order contributes to the achievement of sustainable development."

14. I therefore need to be satisfied particularly that the level of housing being promoted in the plan is the appropriate figure to "meet the needs or present and future generations" which is one of the strands of delivering sustainable development - one of the basic conditions.

15. I note that there has been a housing needs survey undertaken and this may be helpful to me in coming to a view on the Basic Condition as to whether the making of the Plan will achieve the delivery of sustainable development. In addition, I would ask for an exclamation, perhaps by the LPA, on how the housing figure in the emerging policy ST 23 "of approximately 15 dwellings" for East Meon, was arrived at.

Housing numbers

16. I note that Policy EM1 states that of *approximately* 15 dwellings will be built within the plan period. However, the policy sets out the sites as well as the specific site allocation policies, referred to a *maximum* number of units to be provided on the site. Therefore, according to the policy, if proposals came forward for fewer units than the maximum, then the policy would not ensure that the target of 15 units would be achieved.? One could have confidence that the policy could deliver that number, if the criteria was changed to "at least X units" rather than a maximum figure. I would appreciate views on that possible modification.

Definition of Local Need

17. I have concerns about the Policy EM4: Allocation of Affordable Housing. Neighbourhood plan policies are required to deal with the “use and development of land”. It could be argued that the policy extends beyond the remit of the planning system, and into the Housing Allocation Policy of a local authority or registered social landlords, who will have their own distinct policies for allocating social housing, based on housing legislation and case law.
18. This policy will require specific evidence and justification. It may have been possible for matters to be looked at differently if the sites being advanced which are outside the settlement boundaries were being promoted as “exception sites”, i.e. to meet specific affordable housing need in the village, but that does not appear to be the justification for the inclusion of the sites.
19. It could be argued that the Plan as proposed allows any person to buy a new house built in the East Meon irrespective of their links to the area but if a person is to be allocated an affordable home, they must demonstrate a local connection. I am concerned that there could be human rights implications, in terms of how this policy could operate and I will be interested in the views of the Local Planning Authority on whether an Equalities Impact Assessment is required. I am conscious that one of the sites is within the existing settlement boundary and is likely to be social housing.
20. I am interested in the LPA’s position regarding the thresholds for requiring affordable housing or commuted sums in relation to affordable housing following the recent changes in government advice following the judgement in the Reading BC and the West Berkshire case.
21. Similarly, I would wish to hear the LPA’s views as to whether the occupancy conditions and local connection criteria, currently proposed in Policy SD24 of the emerging local plan, would limit occupation to just the parish, when considering “local need” or whether it would allow a development to meet the local housing need to say a family in housing need who live in an adjoining Parish, that did not have a housing allocation.

Protection of Valued Views

22. This policy refers to the impact of development on *significant views*. These are described in paragraph 4.25 of the supporting text, although that is caveated by saying the list is not limited to these views. An applicant or decision maker should have certainty as to whether their proposals would be affected by the

policy requirement i.e. will their development be considered to be development affecting a significant local view. I have examined other plans where important viewpoints are shown on a map with a cone of sensitivity indicated. Would it be possible for these views to be shown on a map?

Phasing of development

23. What is the justification for not allowing development to take place on site B9 until 2025? Are there any impediments, such as infrastructure constraints, to its delivery earlier in the plan period?

Settlement boundaries

24. I know that is intended to redraw the settlement boundaries around the development sites once the construction is completed. What is the mechanism for that change to settlement boundaries, in what will be part of the development plan? Will it be done on a piecemeal basis, as and when each site comes forward or will there be a comprehensive review of the settlement boundary when all the departments are completed?
25. If the neighbourhood plan is indicating that a site is appropriate for residential development why should the land not be shown within the settlement boundaries now? Upon completion of the houses but prior to the revision of the boundaries, I assume that the properties will be treated as falling within a countryside designation.

Final Matters

26. in addition to the above points upon which I am seeking further representations from the two parties, I would be grateful if I could be sent a copy of the Housing Needs Assessment, the Landscape Character Assessment and also copy of the Habitat Regulation Assessment Screening Decision.
27. In order, not to unnecessarily delay progress on this examination, I would welcome these further submissions, covering these matters **by 7 May 2017**, if possible.
28. **I must stress at this point in time that these are only preliminary views and that I maintain an open mind on all these issues.**
29. Please can both parties place a copy of this document and their respective submissions on both National Park's and the Parish Council respective website.