

John Slater Planning

Aldingbourne Neighbourhood Plan 2014-2034

Submission Version

A Report to Arun District Council on the Examination of the Aldingbourne
Neighbourhood Plan

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Introduction

Neighbourhood planning is a process, introduced by the Localism Act 2011, which allows local communities to create the policies which will shape the places where they live and work. The Neighbourhood Plan provides the community with the opportunity to allocate land for particular purposes and to prepare the policies which will be used in the determination of planning applications in their area. Once a neighbourhood plan is made, it will form part of the statutory development plan alongside the Arun Local Plan 2003. Decision makers are required to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

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

This report is the outcome of my examination of the Submission Version of the Aldingbourne Neighbourhood Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by Arun District Council and the South Downs National Park, who are the respective Local Planning Authorities for the neighbourhood plan area, as the northern part of the parish lies within the National Park. Arun District Council has been identified as the “lead authority” in terms of the liaison between the Parish Council and the LPAS, in accordance with Government advice set out in the Planning Practice Guidance.

The Examiner’s Role

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

In order for me to be appointed to this role, I am required to be appropriately experienced and qualified. I have over 38 years’ experience as a planning practitioner, primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of

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the Royal Town Planning Institute. I am independent of both Arun District Council, the South Downs National Park Authority and Aldingbourne Parish Council and I can confirm that I have no interest in any land that is affected by the Neighbourhood Plan.

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

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

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

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

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

I am able to confirm that the Plan, if amended in line with my recommendations, does relate to the development and use of land covering the area designated by Arun District Council and the South Downs National Park Authority, for the Aldingbourne Neighbourhood Plan on 7th November 2013.

I can also confirm that it does specify the period over which the plan has effect namely the period between 2014 and 2034.

I can confirm that the plan does not cover any “excluded development”.

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

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

The Examination Process

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

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

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

This is a resubmitted neighbourhood plan. An earlier version of the plan had been prepared, which was the subject of an examination carried out by another independent examiner, Shelia Holden OBE. She did hold a hearing and heard submissions from both the Parish Council and Arun District Council. She published her report in October 2015 and her recommendation was that this plan should not proceed to referendum. Arun District Council issued a subsequent Decision Statement on 18th December 2015, confirming the decision, made in consultation with and with the agreement of the Parish Council, that the plan would not be proceeding to a public vote. The Parish Council indicated that it would review the plan in the light of the examiners comments and would engage with the community and the Plan would undergo further statutory consultation from the Pre Submission Consultation stage. This examination is the culmination of the second phase of plan preparation.

I carried out an unaccompanied visit to the Aldingbourne Parish and the surrounding area on 9th August 2016 to familiarise myself with the plan area.

I can appreciate that the Parish Council and the residents may question the value of the neighbourhood plan when faced with large developments granted on appeal and facing a major housing development being promoted on its eastern boundary but I do believe the plan will be a positive benefit in influencing how the parish is to be developed over the next 20 years.

In line with my usual practice I sent a draft copy of my report to the Local Planning Authority and the Parish Council for a “fact check” - allowing an opportunity to correct errors, for example, place names I may have got wrong. I specifically stated that this was not an opportunity to question my conclusions, as that would not be appropriate.

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I was therefore surprised to receive three and half pages of prose from the Chairman of the Parish Council, challenging my conclusions in a number of areas. That was not the purpose of sending them a draft of the plan, the purpose of which was explicitly to correct factual errors, not question my conclusions. I have considered the points raised very carefully and for the sake of openness and transparency, I have made one minor change to one recommendation from the draft, in respect of Policy H6 where I have changed the recommendation so that the policy, rather than referring to the “parish” now relates to “settlements within the plan area”. Other than that I do not feel it is necessary or indeed appropriate for me to change my recommendations to the Local Planning Authority. If the Parish Council believe I have come to the wrong conclusions, then that it is a matter that they should take up with the District Council before they produce their Decision Statement.

The Consultation Process

The neighbourhood plan process started in October 2011 with the establishment of a steering group comprising parish councillors and members of the public. Their initial task was to issue a questionnaire to all residents seeking views on a wide range of topics.

In 2013, 2 community events were held seeking residents’ views on planning issues affecting the parish. A housing needs survey was undertaken along with a business survey and a survey of community and voluntary groups.

In June 2014 a housing site assessment exercise was carried out identifying possible sites for housing. This led to a further residents’ survey being carried out in September, along with the holding of two open events seeking the public’s views on the acceptability of 3 residential sites.

That work led to the preparation of the Pre Submission version of the plan, which would have been the Regulation 14 consultation. Following the publication of that plan which allocated sites for 30 houses and employment and leisure sites, a planning appeal had granted consent for 349 new houses within the plan area. Notwithstanding that appeal decision, the Parish Council determined that it would still submit its plan for examination, including the residential and employment site allocation. As previously mentioned, the examination recommended that the plan should not proceed to referendum. The examiner in her report, indicated that she was satisfied on the extent of public consultation. In her report she made numerous recommendations on the wording of the policies.

The Parish Council has adopted, in this new version, many of the recommended
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drafting changes to the policies, as proposed by the first examiner.

This new version of plan, was the subject of a fresh Regulation 14 consultation, which took place between 3rd February 2016 and 16th March 2016. The Consultation Statement describes how the plan was publicised on the Parish Council website and via social media. No comments appear to have been received from local residents and the only representations received at that stage, came from statutory consultees and on behalf of the developer of a proposed strategic housing site, lying to the east of Westergate.

I had reservations as to the extent of publicity given to the current version of the plan, Therefore, I did ask for further information from the Parish Council and it appears that there was more consultation carried out than the Parish had included in their consultation statement. This included articles in both the Parish newsletter and the Church magazine. A public exhibition was held and 30 people attended the Parish Council meeting that considered the revised plan and were able to ask questions. A number of press releases were issued and details of the consultation were advertised on the 3 parish council noticeboards and at the Sports Centre. Publicity was also given by the Village Action Group. The website which had details of the plan had 81 visits and details were sent out to over 400 twitter followers.

I can appreciate that from the public's perspective, the whole process of producing a neighbourhood plan would be seen as the single process. They would not necessarily be energised by the fact that this was technically a different plan rather than the evolution of the earlier plan. Furthermore, the majority of text changes to the plan were based on the wording recommended by the first examiner and the plan was no longer promoting any specific sites for development, apart from one leisure site allocation. Notwithstanding the lack of response at that stage I am satisfied with the publicity measures adopted by the qualifying body.

Regulation 16 Consultation

I have had regard, in carrying out this examination, to all the comments made during the period of final consultation which took place for a 6-week period between 8th June 2016 and 20th July 2016. This consultation was organised by Arun District Council who had received the Submitted Plan, prior to it being passed to me for its examination. That stage is known as the Regulation 16 Consultation.

In total 10 responses were received. These were from the Environment Agency, West Sussex County Council, Arun District Council, Historic England, Natural England, Southern Water, South Downs National Park Authority, one from a local household and 2 separate representations on behalf of the BEW Consortium - one of

which, was received the day after the closing of the consultation period. I believe that there would be no prejudice in allowing that contribution to be considered as part of this examination. I will refer to the results of the Regulation 16 consultation where relevant in the specific sections dealing with the Proposed Policies.

The Basic Conditions Test

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

The 5 questions which constitute the basic conditions, seek to establish that the Neighbourhood Plan meets the statutory tests, are: -

- Whether it is appropriate to make the plan having regard to the national policies and advice contained in the guidance issued by the Secretary of State?
- Will the making of the plan contribute to the achievement of sustainable development?
- Will the making of the plan be in general conformity with the strategic policies set out in the Development Plan for the area?
- Does the making of the plan breach or is otherwise incompatible with EU obligations or human rights legislation?
- Will the making of the Plan have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?

Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case is the Arun Local Plan adopted in 2003. This is now in many respects, out of date, as it predates the National Planning Policy Framework (NPPF).

Arun DC is currently in the process of preparing the new local plan. A pre submission draft was published in October 2014 and it was submitted for examination on 30 January 2015. The appointed Inspector held initial hearings between 2nd - 4th June 2015. He subsequently held a procedural meeting on 16th July to discuss the implications of the councils revised position on the “Objectively Assessed Needs for Market and Affordable housing”. The District Council received the inspector’s

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conclusions on these matters in a letter dated 28th July 2015 in which he recommended that the council should consider a suspension period of 12-18 months in order to develop a suitable strategy to accommodate an increase in housing requirements for the district. That work is currently underway.

The emerging local plan includes a strategic allocation for 2000 houses at Barnham, Eastergate and Westergate, to the east of the parish but that forms part of what is an emerging plan.

The National Park Authority is preparing the South Downs Local Plan for that part of the plan area that falls within their jurisdiction. That plan will only become part of the development plan when it is adopted.

Compliance with European and Human Rights Legislation

The Parish Council requested Arun DC to screen whether the revised version of the Aldingbourne Neighbourhood Development Plan should be the subject of a Strategic Environmental Assessment (SEA) as required by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”.

Arun DC confirmed, having consulted with the statutory consultees, (to which only the Environment Agency responded), to the effect that an SEA was not required and I have been sent a copy of that screening opinion. I am satisfied that the District Council’s conclusion is sound although the screening letter does state that there are no site allocations, although the Plan does contain one leisure allocation for a caravan/ Camping site. That does not to my mind, invalidate the Council’s overall conclusion.

I understand that there are no European protected sites in close proximity to the Plan area and therefore it was not necessary for an Appropriate Assessment under the Habitats Regulations was required.

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

The Neighbourhood Plan: An Overview

This is a resubmitted neighbourhood plan, following the recommendations made by the first examiner, Sheila Holden, that the plan as originally submitted should not proceed to referendum. Her conclusion was that the plan was not a practical framework for the consideration of planning applications. Some of its proposals had gone beyond the legal requirement that neighbourhood plan policy should only relate to the use and development of land. Whilst some changes have been made, this latest version of the plan still includes policies that deal with matters that fall under the jurisdiction of the Highway Authority, relating to highway and traffic management rather than to the determination of planning applications. I have had to recommend the deletion of a number of policies. Similarly, the original plans sought to restrict housing development to meeting very local need only. There was insufficient evidence to justify these policies and that remains my conclusions in respect of a number of policies. There were also concerns regarding the proposed allocations that also led all her to conclude that the plan should not proceed.

The Parish Council could have decided to abandon the neighbourhood plan when faced with such a setback. However, it is to be commended to persevere and to learn the lessons from the first round. The new plan has withdrawn the allocations apart from the leisure proposal for a caravan/camping site and it has taken advantage of the examiner's recommendations, when drafting the latest version of the policies.

It has been very helpful to my examination, to have the benefit of a colleague who has gone through the earlier version of the plan in such a forensic manner and has made recommendations on how policies should be modified so as to meet the basic conditions. Whilst this may have made my task much easier, nevertheless it is incumbent upon myself in conducting this examination, to be comfortable with each of my recommendations. There are a small number of instances when I have come to a different conclusion to that my colleague and I have explained my reasoning as well as sometimes actually amending her recommended drafting.

I do have specific comments regarding some general matters. In particular, I am greatly concerned about the quality of the maps contained within the current version of the plan. Some of the maps do not have a key and in number of instances the writing is completely illegible and the maps are blurred. I cannot understand the reason as the previous version of the plan had excellent presentation including its maps. In its current form the document is not fit for purpose. I did contact the planning department to see if they can help and they have provided me with the digital maps that they have made available to the Parish Council. I cannot therefore understand why is this version the plan is so poor in terms of its presentation. If the

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plan is to be made, I would expect the clarity of the maps to be capable of being radically improved as they will be used by applicants, planning officers, planning inspectors as well as local councillors and the general public. Arun planning officers have offered to assist the Parish in addressing this problem. Similarly, the site context plan, as well as being unreadable, does not cover the whole of the plan area. There are a number of other failings in the document such as the title of the plan, on its cover, refers to the Pre submission Neighbourhood Plan rather than the Submission Version.

There are a number of plans where the policy reference has not been updated from an earlier version of the plan. The document requires a thorough edit to remove errors.

Where I have made changes to the policies I believe that it is beyond the remit of the examiner to be make corresponding changes to the supporting text. It is therefore necessary for the authors of the plan to review the supporting text, so that it logically relates to the policy as recommended to be changed.

The Neighbourhood Plan Policies

Policy H1 Quality of Design

The wording of this policy is based on the wording proposed by the first Examiner but the new version has inserted the requirement that the evidence should be provided “through the submission of a design statement”. Under the terms of the Town and Country Planning (Development Management Procedures) Order 2015, a design statement can only be required on schemes that constitute “major development” i.e. developments of over 10 units or building over 1000 sq. m or certain new buildings in Conservation areas. The requirements of documents to be submitted with a planning application is established by the Council’s Validation Checklist rather than through planning policy. Arun DC has commented that it would be helpful for a document to describe the character of the area but I believe that is a matter that any development management officer should be able to assess.

Recommendation

Delete “through the submission of a design statement”

Policy H2 Housing Mix

The wording of the policy is that which was proposed by the first examiner. I consider that it meets basic conditions.

Policy H3 Housing Density

I consider that this policy meets basic conditions and no amendments are necessary.

Policy H4 Affordable Housing

This policy has been expanded from the version recommended by the first examiner by a number of elements. I consider the inclusion of the viability test to be in line with government advice which in summary, is that departures from affordable housing policies can be allowed if it is shown that the imposition of that requirement would render the scheme unviable. The requirement for affordable housing to be broadly consistent in design and type with those delivered for market scale is, I believe, a too onerous requirement. Affordable housing providers will have their own specific requirements in terms of their desired mix to most effectively meet the demands of those in housing needs. Equally they face their own constraints in terms of funding and technical specifications. It would be perverse, if a development of 5-bedroom market housing, would be forced to be matched with 40% of the units built on the site, being 5 bedroom affordable units, when the highest levels of housing need could be for smaller units. That is why I believe that the last sentence of the policy i.e. latest housing needs evidence, should be the driver of the mix of housing on a site. If the policy were to be retained as submitted, then it would be possible for the policy to contain inherent contradictions between the two criteria. I therefore propose that the second sentence of the policy be deleted.

Recommendation

That the second sentence of the policy be deleted.

Policy H5 Local Connections

This policy seeks to give first preference to local residents, to new affordable housing built in the parish. I cannot see that there is compelling evidence to justify the inclusion of this policy. The previous examiner recommended the policy's deletion and that is a recommendation with which I concur. Such matters of the allocation of affordable housing is best left to the Housing Authority unless there are special circumstances that restrict the overall supply of housing, such as exists in the National Parks.

Recommendation

That the policy be deleted.

Policy H6 Windfall Sites

The policy has departed from that which was recommended by the previous examiner. The policy seeks to restrict development sites within the settlement boundary. The settlement boundary only relates to Westergate, therefore the redevelopment of sites outside the main village would not be supported. Yet, in terms of the criteria, it requires that the scale and design of the development must be appropriate to the size and character of the settlement, implying that the policy could relate to other settlements in the parish beyond Westergate. I therefore do not consider that the policy should restrict windfall developments only to Westergate but

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redevelopment or infill could just as easily be contemplated in other villages. I therefore will be recommending the original drafting of the policy from the first examiner in as much as it relates to sites within the parish, as a whole.

In terms of the other criteria now being introduced, I do not recognise how a proposal should have regard to the role of the settlement when the different roles performed by the different settlements is not differentiated.

I do however consider the need for wildlife to be conserved or enhanced to be an unrealistic expectation upon redevelopment or infill sites. Wildlife covers all species and could include species where there are no specific planning aspirations to protect, such as rabbits, grey squirrels etc. There are special requirements covering the protection of the habitat of protected species and this is covered by other legislative requirements or specific policies.

The need to demonstrate the integration with existing development is already covered by other policies e.g. Policy H3. The test for highway impacts set out in the NPPF in paragraph 32 where transport matters would lead to the refusal of a scheme, is that the residual cumulative impact of development are severe. This needs to be added to the wording of the policy. This level of impact is unlikely to be caused by windfall sites, which the limited justification in the document, recognises as being small residential developments.

Recommendations

In the first paragraph, delete “settlement boundary” and insert “settlements within the plan area”.

In bullet point i) delete text after “scale” and insert “and character of the settlement”,

Policy H7 Development in the vicinity of businesses

This policy is consistent with national policy set out in paragraph 123 of the NPPF. It meets basic conditions.

Policy H8 Outdoor Space

The drafting of this policy was recommended by the previous examiner and I concur with the conclusion that it meets the basic conditions and no changes are required.

Policy H9 Attention to detail

I agree with the previous examiner that this policy as written meets the basic conditions.

Policy EH1 Built Up Area Boundary (BUAB)

Again this policy is very close to that recommended by the past examiner. The policy now omits the clarification that policies that do not accord with development plan policies *in respect of the countryside*, will be resisted. I believe that should be

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reinserted as it clarifies that it is matters related to the relationship with settlement pattern that is the relevant consideration for answering the question as to whether the proposal meets the locational criteria.

A representation has been received from Southern Water stating that the proposed wording, in their opinion, does not meet basic conditions as it does not consider the acceptability of utility development outside the built up area. I accept that the matter can be addressed by the insertion of the wording suggested by the representation.

Recommendations

Insert” in respect of the countryside” after “development plan policies “in the second paragraph.

Insert at end of policy” unless it is for essential utility infrastructure, where the benefits outweigh any harm, and it can be demonstrated that no reasonable alternative sites are available”

Policy EH2 Green Infrastructure and Ecosystems

This has proved to be one of the more controversial element of the plan. The recommendation from the first examination was that “New Development within the Biodiversity Corridors will not be permitted.” The current version extends the influence of the policy to include land immediately adjacent to the corridors.

My consideration of this issue has been driven by the basic condition test and in this case the question I need to be satisfied is whether the policy as submitted, along with the extent of the areas to be covered by the policy on Map A, will affect the neighbourhood plans ability to deliver sustainable development.

I have had particular regard to the representations of Luken Beck on this issue with the accompanying report entitled “Land at Westergate, West Sussex –An Assessment of Value of Site as a Biodiversity Corridor” prepared by the consultancy, Ecological Survey and Assessment Ltd. I have equally had regard to the document entitled “Report on the Development of Biodiversity/Green Corridors in the Parish of Aldingbourne”, prepared by the Chairman of the Parish Council, Mr Martin Beaton. It appears that it is common ground that all parties agree that the hedgerows and the chalk streams are of ecological value, in terms of being a network which the NPPF recommend should be identified in planning policy documents. The area of difference, which I need to focus on, is whether the inclusion of the fields on the east side of the Westergate should be identified within the Biodiversity Corridor.

Rather than coming to a definitive view as to where the weight of the evidence lies, I will look at the implications of that designation of the fields which fall within the strategic allocation for 2000 homes, set out in the latest version of the emerging plan.

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This is only an emerging plan and not the development plan itself, a point recognised by Shelia Holden. However, the designation of this strategic housing area is part of the response to the challenge to meet an increased level of objectively assessed housing need. The meeting of objectively assessed need, is one of the constituents of delivering sustainable development, as recognised by paragraph 12 of the NPPF. Potentially the allocation of these fields as Biodiversity Corridors could affect the overall delivery of that strategic housing development. As such Policy EH2 will affect the supply of housing land. This possible conflict has already been identified by the Arun Local Plan Inspector who indicated that the matters of the identification of the Green Corridor on these sites should be resolved in the context of the local plan preparation rather than neighbouring plan. I too believe that that is the correct venue to consider the extent of development and its associated green infrastructure. I do not think it would be appropriate for the neighbourhood plan to pre-empt those decisions by extending protection beyond the hedgerows and streams.

Equally I am aware of the recent case law *Richborough Estates LLP V Cheshire East Borough Council*. The conclusion from that case, is the designation of such areas, as green biodiversity corridors, should have regard to the impact of that policy on the ability to meet housing need. I have had that consideration at the forefront of my mind and I will be making recommendations as to the designation of the disputed fields as opposed to the retention of the hedgerows and watercourses as Biodiversity Corridors as set out in the policy.

I am also conscious that the proposals for the identification of strategic housing area are still emerging, and any residential development allocations has to be considered and tested by the emerging Plan's sustainability appraisal. Similarly, any planning application for a residential development of this scale, is likely to be subject of an environmental impact assessment. This will enable the local planning authority to consider specific proposals against the most up-to-date ecological survey evidence.

My overall conclusion is that the policy as promoted can remain but that the extent of the Biodiversity Corridor identified on Map A should be reduced, by the removal of the agricultural fields shaded on the east side of Westgate. If I had come to a different conclusion, I believe that the plan would frustrate the meeting of housing need.

Southern Water have suggested that the policy could be amended by a caveat to be added at the end to allow essential waste water infrastructure. I believe that infrastructure providers should and indeed often do need to have regard to ecological designations.

Recommendation

That the shaded areas indicating the inclusion of the fields on the east side of Westergate be removed from Map A.

Policy EH3 Development on Agricultural Land

The new policy is again drawn upon the recommendations from the first examiner apart from the removal of the criteria regarding the development of sites allocated for development on the Proposals Map.

I am satisfied that the policy complies with national planning policy and it meets the basic conditions.

Policy EH4 Protection of Watercourses

Again this version of the policy is as recommended by the first examiner. I am satisfied that it meets basic conditions and no amendment is necessary.

Policy EH5 Surface Water Management

This policy is a variation on that which was recommended by the last examiner. The change is that it exempts the requirement for Flood Risk Assessments, minor householder and commercial extensions. However, the plan does not define what is meant by *minor extensions*. Government advice is that all development in Flood Zones 2 and 3 should be subject to a Flood Risk Assessment albeit the level of detail should be proportionate to the scale of the development and indeed quotes the example of house extensions under the need for proportionate information. I therefore do not think that exempting minor householder and commercial extensions is justified in terms of the overall approach to flood risk. The other change from the previous recommendation, is the addition of the word “operation” before “use”. I cannot see how that adds to the policy as the use of the premises will include, its operational use.

Recommendation

Delete “(apart from minor householder and commercial extensions)”

Delete “operation” from subsection a)

Policy EH6 Protection of trees and hedgerows

The policy has been extended beyond the previous version and the recommendation from the first examiner, which was restricted to the consideration of the arboricultural and amenity value of the trees and hedgerows. The policy now includes priority habitats and ecological networks. My only concern is the requirement for all development proposals to incorporate biodiversity and to enhance ecological networks, when in many cases this would not be possible or indeed appropriate. I therefore propose to make the requirement in respect of a development, only where

it is a relevant consideration. Beyond that I consider that the policy accords with basic conditions.

Recommendation

Insert “where appropriate “after “Development proposals” in the second paragraph.

Policy EH7 Renewable and Low Carbon Energy

This policy has a widened remit from the original Submission version in that it is no longer restricted to schemes that “serve individual properties or groups of properties.” The original examiner was satisfied that the policy met basic conditions so long as the test of harm to heritage assets was extended to include their setting. That amendment is now included in the latest version of the plan. Arun DC has commented that the final paragraph could mitigate against proposals which were schemes that were complementary to the farming operations such as anaerobic digestion. That point can be covered by an exemption to allow schemes which would be complimentary to the farming operation.

Recommendation

Insert “unless it is complementary to the farming operation.” at the end of the policy.

Policy EH8 Buildings and structures of Character

The wording of the policy is based on the policy as recommended by the first examiner, with the addition of an extra criterion for considering applications, namely that “harm is unavoidable in order to secure significant public benefits” I have no concerns regarding that condition. My preference would have been to refer to such buildings as non-designated historic assets, which is the term used by the NPPF, but I am aware that Buildings and Structures of Character is a term used throughout Arun District so I will not recommend that change.

Policy EH9 Conservation Areas and Areas of Special Character

I note that the last examiner recommended that the original policy, which appeared in the first version of the plan, should be deleted. Much of that policy has now been removed from this version of the Plan. The title of the policy refers to Areas of Special Character – reference to which is no longer included in the plan. The title of the policy should be amended accordingly. I did consider whether the 3 criteria were necessary, as they are matters covered by the consideration of the effect of the proposal on the setting of the conservation areas but my conclusion was that these are matters which are clearly of importance to the community and will assist the decision maker when considering future proposals. Whilst my colleague examiner rightly points out that Conservation Areas already enjoy statutory protection, I am aware that many local and neighbourhood plans include policies and I do not consider that the inclusion affects my judgement on the basic conditions.

Recommendation

Retitle the policy as “Conservation Areas”

Policy EH10 Unlit Village status

This policy is more encompassing than the original version of the policy, which the examiner had concluded, did not need amendment. The new policy now includes the statement “The importance of dark skies will be respected throughout the Parish as a priority”. I do not consider that this is actually a policy for the use and development of land and should be omitted.

Street lighting is not a matter that ordinarily comes under planning control, as it is a matter that normally falls to the Highway Authority and does not normally require planning consent. I do recognise the need for the policy to deal with external lighting whether it be for security or to allow the use of facilities into the evenings, although again some lighting may fall outside the scope of planning control. However, I believe the test should be, not whether the lighting is neighbourly but whether it will have an adverse effect on the amenity of neighbouring properties or on the quality of the dark sky at night. This control can often be achieved by the imposition of appropriate conditions. The National Park has recommended that the title should be changed to Dark Skies Policy to bring it in line with their emerging local plan policy, but only a very small part of the plan area lies within the national park and that is fairly undeveloped so I do not believe a change of title is justified.

Recommendation

Delete the second paragraph and the first sentence of the third paragraph.

Policy EH11 Flint Walls

This policy has been introduced in to the latest version of the Plan. From my site visit, I acknowledge that the flint walls are part of the distinctiveness of the area and it is right that the Plan should contain policies that protect this feature of the area. However, there will be some new development taking place in the areas identified that will not require new boundary treatments such as extensions to dwellings. This can be accommodated by the inclusion of the caveat “where it is appropriate” at the end of the policy.

Recommendation

Insert “where it is appropriate” at the end of the policy.

Policy GA1 Promoting sustainable movement

The wording of the policy is as per the recommendation of the first examiner. I therefore am satisfied that it meets the basic conditions.

Policy GA2 Footpath and Cycle Path network

A different version of the policy, which included references to specific improvements, was recommended for deletion at the first examination. Whilst it could be argued that it does cover the same grounds of Policy GA1, I do not think that would mean that this new version of the policy fails the basic conditions.

Policy GA3 Parking and new development

The policy has been amended in accordance with the examiners recommendation. I believe that it meets basic conditions.

Policy GA4 Woodgate Crossing

Neighbourhood plan policies are required to be policies for the use and development of land. That is one of the legislative requirements. As the supporting text notes, the decision to close a railway crossing is a matter that falls under the jurisdiction of Network Rail and it has its own statutory procedures. I can appreciate that this is a matter of local controversy with advocates on both sides of the argument but the decision as to whether to close a the crossing, is not a matter that would be subject of a planning application. I have to conclude that the policy should be deleted on the basis that is not a policy for the use and development of land, but that the issue can be referred to within the non-development plan section of the document which is entitled Community Aspirations.

Recommendation

That the policy be deleted.

Policy GA5 Traffic Management

This policy does not relate to the use and development of land. The matters covered relate to the responsibilities that are covered by the Highway Authority rather than the Local Planning Authority. As such it does not meet the statutory test of a neighbourhood plan.

Recommendation

That the policy be deleted.

Policy GA6 Quiet Lanes

Again the same issue applies, the matters covered by the policy do not cover the use and development of land. The Parish Council's aspirations to have the nine lanes designated as Quiet Lanes and the request for measures to improve the safety of non-motorised users of these roads can be included within the Community Aspirations section of the plan.

Recommendation

That the policy be deleted.

Policy EE1 Supporting Existing Employment and Retail

The last version of the plan dealt solely with employment sites, but the current version also includes support for the upgrade and extension of retail uses. I am concerned that a general support for the extension of retail uses could in theory, lead to support for proposals that could affect the vitality of town centres, which have a special status in terms of national planning policy. However from my visit to the parish, I do not consider there is the potential for any of the retail units in the village to be expanded to such an extent to fall under the need for the sequential approach and in fact the policy falls more appropriately within the scope of Paragraph 28 of the NPPF, which states that neighbourhood plans should support the retention and development of local services. As such I consider the policy meets basic conditions.

Policy EE2 Retention of employment land

The policy is now in line with the policy as recommended to be amended by the first examiner. I agree that it meets the basic conditions.

Policy EE3 Support for new commercial uses

The first examiner in the previous version of the plan, was presented by a similar policy and she recommended the deletion of the reference to the impact on “residential amenity” and the “community amenity” as they ran counter to the basic conditions by way of conflict with strategic planning policy set out in the Arun Local Plan, the NPPF and sustainable development. My only recommendation is that proposals will not just have to comply with policies in this plan but they will also have to have regard to other relevant policies in the development plan, whether it be the existing Local Plan or the new Local plan when it is eventually adopted.

Recommendations

Delete “where the impact on surrounding residential and community amenity is acceptable”.

Insert “development” before “Plan”.

Policy EE4 Local shopping facilities

The policy in this version is the policy as drafted by the examiner . I concur that it meets the basic conditions.

Policy EE5 Improving signage

Whilst I have no objections to this policy in terms of the basic conditions, it has to be pointed out that neighbourhood plan policy is not relevant to the consideration of applications for consent to display advertisements, which can only be considered on the basis of amenity and public safety rather than compliance with policy.

Policy EE6 Sustainable Recreational and tourism activities

The wording of the policy is as per the last examiner's recommendation, apart from the addition of the requirement for the proposal to conform with other policies of this Plan. Whilst all applications have to be capable of being compatible with relevant development plan policy, I do not think that the inclusion breaches the basic conditions, but it would better to refer to the development plan rather than just the neighbourhood plan.

Recommendation

Insert "the development" before "plan" in the final bullet point.

Policy EE7 Rural Buildings

This policy is identical to the previous version of the plan apart from the support being expressed in principle which was recommended for deletion. I am satisfied that the policy accords with the basic conditions.

Policy EE8 Communications infrastructure

The policy is identical to the earlier version of the plan. The previous examiner had recommended the deletion of the second part of the policy, dealing with proposals that will provide improved/ additional connectivity to the parish as a whole. On this occasion I do not agree with the conclusions my colleague has come to. She has interpreted the policy as supporting development that would fund connectivity to the rest of the parish and that may not meet the 3 tests for planning obligations, as set out in Regulation 122 of the Community Infrastructure Levy Regulations. However, I can envisage a different scenario that the current proposed wording would cover. If one of the service providers needed planning consent for infrastructure which could improve the coverage and performance of broadband to existing residents, then this would be covered by the policy. That would be consistent with the approach recommended by Section 5 of the NPPF. I therefore conclude that the policy as drafted does meet the basic conditions.

Policy EE9 Sustainable Commercial and Employment Buildings

This policy has been expanded since the previous version. The first element now refers to the need to comply with relevant County Council standards. It also has been expanded to include all new employment development. There will be some minor operational development, where the requirement for the provision of cycle facilities will not be justified. It should only be required where it is appropriate, where there was a significant increase in floorspace. That gives the decision maker a degree of discretion and allow consideration of the circumstances of the application.

The second element requires the introduction of renewable or low carbon energy sources on new commercial buildings where it is viable and consistent with other plan policies. The previous examiner had recommended the deletion of the whole policy as being too onerous. I agree that it would be inappropriate to not approve

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commercial development that could generate new local jobs, on the basis that it did not incorporate energy generating infrastructure. However, my recommendation is that the policy should support development that incorporates such infrastructure, where a developer wishes to promote it. That would allow the development to contribute to sustainable development, in all its senses.

Recommendations

Insert “where it would be appropriate” after “employment development” in the first paragraph of the policy.

Replace “should be” by “which are” and add “will be supported” at the end of the policy.

Policy LC1 Support Independent Living

I do not agree with the recommendation of the earlier examiner, who recommended that the policy be retitled “Provision for the elderly”. I consider that the policy could cater for all ages who have a particular need including children and adults of all ages. I consider the policy meets basic conditions.

Policy LC2 Healthcare facilities

In line with my colleague examiner, I consider that the policy does not need amendment as it meets the basic conditions.

Policy LC3 Provision of buildings for community use

The policy is similar to that recommended following the first examination, apart from the inclusion of the “effect upon the surrounding properties.” I do not consider that it is appropriate to limit the consideration of impact on just the surrounding properties as traffic generation associated with a community use, may affect a wider residential area. To eliminate the consideration of these issues would not be in line with policies in the Framework.

Recommendation

Delete” of surrounding properties”

Policy LC4 Provision of allotments/ community orchards

In the previous version of the policy it was limited to allotments only. It now covers the community orchards as well. No justification is given as to the need for community orchards and government advice is that policies have to be evidence based. There is no reference to community orchard in the supporting text. I will also be recommending the deletion of the “proposals which seek to remove traditional orchard will not be supported” as the felling of fruit trees does not constitute development.

Recommendations

Remove reference in title and text of policy to “Community Orchards”

Delete the last sentence

Policy LC5 Protection of assets of community value

The wording of the policy is identical to that recommended by the earlier examiner, apart from the test being of *economically* viable as compared to *financially* viable, as recommended. I do not believe that the change in wording will affect the test that an applicant will need to pass if consent is to be granted and it does not affect the basic conditions

Policy LC6 Designation of Local Green Space

The wording of the policy is based on that recommended by the first examiner, apart from the reference to the spaces being shown on Map C. The policy as now submitted does not refer to a Map although the document does show then on The Local Green Space Map. I am satisfied that the policy passes basic conditions if the extent of the area covered by the policy is shown on a map, being referred to in the policy wording.

Recommendation

Insert “and shown on the Local Green Spaces Map” after “Schedule B”.

Policy LC7 Local Open Space

The same issues relate to this policy as the previous policy. The policy is basically as drafted by the first examiner.

Recommendation

Insert “and shown on the Local Open Space Map” after “Schedule C”.

Policy LC8 School facilities

The last version of the plan allocated a site for a school on the Proposal Map and the Examiner recommended the policy be deleted. The policy is now a general policy of support for the provision or improvement of facilities for primary school children. That policy would only be used if the proposals for additional facilities are submitted. I have no concerns with the objective of the policy but I consider that it would comply with strategic and national policy if it also referred to compliance with other policies in the development plan. That could cover a situation where for example a new school was promoted outside of the settlement in open countryside,

Recommendations

Add at the end of the policy “subject to compliance with other relevant policies in the development plan”.

Policy LC9 Allocation for camping/ touring caravans

Again this policy is as per the recommendation of the first Examiner and I believe it meets basic conditions.

The Referendum Area

If I am to recommend that the Plan progresses to its referendum stage, I am required to confirm whether the referendum should cover a larger area than the area covered by the Neighbourhood Plan. In this instance I can confirm that the area of the Neighbourhood Plan as designated by Arun District Council and South Downs National Park Authority on 7th November 2013 is the appropriate area for the Referendum to be held and the area for the referendum does not need to be extended.

Summary

The Parish Council are to be congratulated on persevering with its plan. It has reacted to its setback in a positive manner in responding to Shelia Holden's recommendations. Whilst I have made changes to the plan, some of which I suspect will disappoint the Parish I nevertheless consider this is a sound basis for guiding development taking place within the Parish. Where I have deleted policies as not being applicable to a neighbourhood plan I recognise they reflect local opinion and can still be included in the non-development plan section of the document as Community Aspirations.

Finally, I can confirm that my overall conclusions are that the Plan, if amended in line with my recommendations, meets all the statutory requirements including the basic conditions test and it is appropriate that if successful at referendum that the Plan, as amended, be made.

I am therefore delighted to recommend to the Arun District Council and the South Downs National Park Authority that the Aldingbourne Neighbourhood Plan, as modified by my recommendations, should now proceed to referendum

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19th August 2016