

John Slater Planning Ltd

Lavant Neighbourhood Development Plan 2016-2031

Submission Version

A Report to the South Downs National Park Authority and Chichester District Council on the Examination of the Lavant Neighbourhood Development Plan

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Date

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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 Chichester Local Plan: Key Policies 2014 - 2029 which covers the part of the parish outside the National Park and the Chichester Local Plan which was adopted in 1999, for that part of the Parish which is within the National Park. In due course the latter Plan will be replaced by the South Downs Local Plan when it is adopted. 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 Lavant Parish Council. A Steering Group was appointed to undertake the plan preparation made up of Parish Councilors and residents. Lavant 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 Lavant Neighbourhood Development Plan. My report will make recommendations based on my findings on whether the Plan should go forward to a referendum. If the plan then receives the support of over 50% of those voting at the referendum, the Plan will be “made” by both Chichester District Council and the South Downs National Park, who are the respective Local Planning Authorities for the neighbourhood plan area. As the northern 78% of the Parish lies within the National Park, the South Downs National Park Authority has been identified as the “lead authority” in terms of the liaison between the Parish Council and the local planning authorities, in accordance with Government advice set out in the Planning Practice Guidance.

The Examiner’s Role

I was formally appointed by the South Downs National Park Authority in January 2017, with the agreement of Lavant 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,

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primarily working in local government, which included 8 years as a Head of Planning at a large unitary authority on the south coast, but latterly as an independent planning consultant. I am a Chartered Town Planner and a member of the Royal Town Planning Institute. I am independent of both South Downs National Park Authority, Chichester District Council, and Lavant 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 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 Lavant neighbourhood Development Plan.

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. It covers the area designated by the South Downs National Park Authority, for that part of the Lavant Neighbourhood Plan within the National Park on 14th March 2013. The area outside the National Park was designated by Chichester District Council on 18th March 2013. The plan area coincides with the Parish boundary.

I can confirm that it does specify the period over which the plan has effect, namely the period between 2016 and 2031.

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

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

The Examination Process

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

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

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

I carried out an unaccompanied visit to the village and the Plan area on 26th February 2017 to re-familiarise myself with the village and the Plan area and I visited all the sites referred to in the Plan.

The Consultation Process

The Steering Group has throughout the process sought to actively consult and engage with the residents of the parish on the preparation of this neighbourhood plan. They used a variety of methods including open public meetings, Church magazines, Parish newsletters, attending village events, a special “Beating the Bounds” event and a Road and Traffic Day as well as a number of surveys and questionnaires.

The process began with an open meeting organised by the Parish Council in October 2013. In February 2014, having produced a communication strategy an initial household survey was distributed which received 143 responses – a very creditable 20% return rate. In addition, there was an open meeting attended by 180 residents. A Vision Statement workshop was held in March 2014 to specially invited persons and groups and in May 2014 a housing survey was conducted. The results of these activities were reported to an open meeting in June 2014, again with a good turnout of 90 residents.

In September 2014, an event entitled “Beating the Bounds” was specially organised to allow residents, through walking the parish, to articulate what they value about living in the village. This was attended by 161 participants.

The neighbourhood planning process continued with a further public meeting in December 2014 followed by other sessions held in February 2015 allowing the community to express their preferences in terms of the development of a number of sites, that have come forward following a call for sites.

The first draft of the plan and policies were published and explained at two sessions in May 2015. In July, a Roads and Traffic Day was held with an invited external highway and public realm consultant who was able to report on his findings and conclusions to a public meeting held on the evening of his visit. Finally, a survey of business users was held in October 2015.

All this preparatory work culminated in the publication of a Regulation 14 pre-submission consultation document, consultation upon which ran from 10 March 2016 to 28 April 2016. This consultation was launched at a meeting where over 100 people attended and 63 individual responses was received by the Steering Group. All this engagement has been fully set out in the Consultation Statement and Appendices.

I wish to record that the Steering Group had to come to a view on how to deal with a proposal for a relief road being advanced by a group within the village led by Derek Kingaby. I wish to place on record that I believe the Steering Group dealt with the issue entirely properly, allowing the public to be aware of the proposal being advanced and as a group coming to an agreed view as to how the proposal should be dealt with within the neighbourhood plan.

Regulation 16 Consultation

Once the Neighbourhood Plan was formally submitted under Regulation 15, the National Park Authority carried out the formal Regulation 16 Consultation. This ran from 10th January until 21st February 2017. In total, 26 representations were received from South Downs National Park Authority, West Sussex County Council, Chichester District Council, Highways England, Historic England, Southern Water and the Environment Agency. In addition, I received representations on behalf of the developers of Maddoxwood House, the Pook Lane Site and on behalf of the developers of Eastmead Industrial Estate. There were 16 submissions from local

residents including one detailed submission from the promoter of the relief road proposal.

I have had regard, in carrying out this examination to all the comments made.

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

- Has had regard to the national policies and advice contained in the guidance issued by the Secretary of State and it is appropriate to make the Plan?
- 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?
- The making of the Plan does not breach or is otherwise incompatible with EU obligations or human rights legislation?
- Whether prescribed conditions are met and prescribed matters have been complied with?
- Whether the making of the Plan will have a significant effect upon a European site or a European offshore marine site, either alone or in combination with other plans and projects?

Compliance with the Development Plan

To meet the basic conditions test, the Neighbourhood Plan is required to be in general conformity with the strategic policies of the Development Plan, which in this case are the saved policies contained in the Chichester Local Plan adopted in 1999 for those parts of the Plan area in the National Park and the Chichester Local Plan Key Policies 2014 – 2029 for the areas outside the National Park. Work is still currently being progressed on the emerging South Downs Local Plan which is at its Preferred Options

stage. That version of the Plan allocates a housing figure of approximately 20 dwellings to Lavant Parish. This is emerging policy which has not been tested at Public Examination. When it is finally adopted, then this Plan will replace the 1999 adopted Chichester Local Plan. However, in terms of the Basic Conditions Test, I am required to assess the neighbourhood plan against the test of general conformity with the strategic policies in the adopted development plan.

Compliance with European and Human Rights Legislation

The Steering Group, at an early stage, decided to subject the emerging plan to a Sustainability Appraisal, as a means to refine and make decisions on options. The published report included a Strategic Environmental Assessment. The scope of that assessment was the subject of a formal Scoping Report which was consulted upon. The Scoping Report now incorporates the comments made by South Downs National Park Authority planners.

I consider that this work meets the requirements imposed by EU Directive 2001/42/EC which is enshrined into UK law by the “Environmental Assessment of Plans and Programmes Regulations 2004”.

In terms of the Habitat Regulations, I have now been provided with a Screening Report dated January 2017 issued by South Downs National Park Authority confirming that a Habitat Regulation Assessment was not 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 neighbourhood plan is promoting a higher level of housing growth to that which was being proposed by the South Downs Local Plan – Preferred Options. The plan proposes 75 additional homes, primarily through four site allocations and an allowance for windfall development, compared with the 20 dwellings suggested by the emerging South Downs plan. This is a good example of “localism”, which is recognised by the NPPF, allowing local communities to promote more development than set out in the Local Plan. I do not believe that this increase will affect either the settlement’s role within the National Park, nor in terms of the cumulative impact on the transport system or upon European Protected sites as some representations have suggested.

The policies, in the main, have been backed by a commendably robust evidence base which supports the policies in the Submission Version of the Plan. The Lavant Plan has, through its evolution, looked at a number of development scenarios including the possible option of a by-pass around the village. That option was carefully and fully considered and the decision, in my view, properly taken to exclude it as a viable basis for taking the neighbourhood plan forward. The Group has taken a positive and pragmatic approach to plan making. I have also been impressed by the level of community engagement and it is clear that it has shaped the final version of the Plan.

There have been a number of policies where the Plan has promoted a more stringent approach than is set out in national guidance. I am required to have particular regard to the basic conditions test and my recommendations are restricted to those where I believe that the changes are required to meet the basic conditions.

My recommendations have primarily related to actual wording of the development plan policy. A number of representations have pointed out errors or are making comments in respect of the early chapters of the document or the supporting text. I do not consider that it falls under my remit as examiner to look at these textual changes but I would encourage a dialogue between the Qualifying Body and the LPA to address matters of the supporting text or justifications, to remove the errors and anomalies or also to reflect in the supporting text the changes to the Plan as a result of my recommendations, to ensure the coherence of the plan document.

This plan does cover a wide range of development issues. Representations have been made by Southern Water regarding the absence of an overarching infrastructure policy. However, the difference between a neighbourhood plan and the Local Plan is that a community can choose what policies it wishes to deal with and other matters can be properly left to other parts of the development plan.

I am satisfied that the plan has been prepared following extensive consultation and will enjoy local support, which should be reflected, in due course, in the referendum.

The Neighbourhood Development Policy

Policy LNDP 1 – Spatial Strategy and Settlement Boundaries

I have concerns that by seeking to define what is “sustainable development”, the plan could seek to deviate from the government’s views as to what sustainable development is, as set out in the NPPF. The extent to which the Plan will contribute to the delivery of sustainable development is also one of the basic conditions. The Framework states in paragraph 6, that the policies set out in paragraphs 18-219, taken as a whole, constitutes the government’s views of what sustainable development means in practice for the planning system. I am concerned that this neighbourhood plan could, by defining its own interpretation in this policy that “development proposals

will constitute sustainable development where they meet six criteria” could lead to situations where proposals would meet the national definition but which fail the neighbourhood plan’s definition. It could for example lead to difficulties with a planning application that goes to appeal.

The introduction of the Plan’s own definition of what actually constitutes sustainable development actually deflects away from the remainder of the policy which accurately follows the brief set by the policy heading, namely being “A spatial Strategy and Settlement Boundaries”. I therefore propose a modification to remove reference to sustainable development and insert “will be approved” instead as a positive indication

The plan has carried out a review of the settlement boundaries and this is described in the document contained within the evidence base entitled “Settlement Boundary Review.’ This uses a methodology promoted by the South Downs National Park Authority.

Under the previous 1999 Chichester Local Plan, only Mid Lavant had a settlement boundary. The neighbourhood plan proposes new settlement areas, one covering East Lavant and another around Maddoxwood and the frontage garage site and the St Wilfred’s Hospice furniture shop. These new designations have been drawn up using the agreed methodology and following the criteria set out in the evidence paper. This does mean that the proposed allocations at Pook Lane and Church Farm barns will fall outside the settlement boundary.

The two planning authorities take differing views on how to treat the settlement boundary in relation to the allocation sites. The National Park planners suggest the inclusion of the 2 sites inside an amended settlement boundary and Chichester planners object to the inclusion of the Maddoxwood site and the land in front which is shown as lying inside the proposed settlement. I have concluded that it is appropriate to recommend the inclusion of these sites within the boundary otherwise once the development is completed, the new houses will be subject to more stringent countryside policies, than would be the case if they were within the settlement boundary.

Having proposed the changing of the settlement boundaries to include the development sites, their reference in the countryside section is no longer relevant. I am concerned that as drafted, the policy is somewhat ambiguous as it states that planning application will be assessed on a site by site basis and having demonstrated a significant need. Strategic and national planning policy relating to development outside settlements is that the proposal must demonstrate a need to be in a countryside location and I propose to amend the policy to state that the proposed development has to meet other relevant requirements set out in the national policy and local plans.

Recommendation

Replace “constitute sustainable development” and insert “be approved”

Include Church Farm Barn and the residential allocation at Pook Lane LNDP21 site within the settlement boundary

Replace the last paragraph by “Land outside the settlement boundaries is considered to be countryside and development will only be allowed if it is the subject of a specific policy in this neighbourhood plan or can demonstrate a need to be located in the countryside, as set out in national and local plan policies”

Policy LNDP2 South Downs National Park

The policy as written for development in the National Park requires that proposals must conserve, but then adds a caveat “where possible” enhance the special qualities and essential characteristics of the National Park. This is a lower threshold than is set out in legislation, government guidance and in the NPPF. The tests in the relevant document, English National Parks and the Broads: UK government Vision and Circular - 2010 requires proposals to both conserve and enhance the essential elements of National Park designation. When dealing with that part of the plan area which falls outside the National Park, the requirement should be to protect the setting of the National Park. As Chichester has stated, it is not appropriate to place that obligation on those sites which have no impact on the National Park, whether it be from its individual setting or location within the plan area such as Maddoxwood (Policy LNDP 24). There will be some minor forms of development such as residential extensions where it would not be proportionate to impose a requirement for the proposal to be assessed against the South Downs Integrated Landscape Character Assessment, so an appropriate response would be to insert a caveat “where appropriate”. For the sake of clarity, I propose to add reference to subsequent revisions to that document.

Recommendation

Insert after National Park “where it affects its setting”

Delete “where possible”

Insert after development proposals in the last paragraph “except residential extensions or other minor development” and add at the end of the policy “or subsequent revisions of that document”

Policy LNDP3 Local Gaps

There have been two areas where objections have been made by Chichester District Council to the omission from the local gap. It has been suggested that the woodland area of Maddoxwood should be included and also the triangle of land on the opposite side the A286 Midhurst Road. Both of these areas are undeveloped land which

contribute to the gap between Lavant and Chichester. I will propose to include them within the gap.

The National Park Authority has suggested an alternative form of wording for criterion 1. I am not sure that it is the fact that the land is physically undeveloped that it is important rather it is the how the gap performs a function of separating the various settlements i.e. only those which “visually, perceptively or physically” lead to the coalescence. There could be some development within these areas which would still allow the land to retain its function as a local gap. I therefore do not need to make that suggested modification to achieve basic conditions.

The National Park Authority has recommended that the final element of the policy wording, which allows sports and recreational uses, could usefully be expanded to include “other community uses” to allow for the extension to the village hall car park”. This would have been prevented by the current drafting.

Recommendation

Include in the Local Gap designation the Woodland north of Maddoxwood and triangle of land on opposite side of Midhurst Road

Insert, “other community uses” after “sport” in both the penultimate and final sentences.

Policy LNDP4- Delivering new homes

The Plan has been accompanied by a housing needs survey conducted on behalf of the Parish Council by the Housing Enabling Officer at Chichester District Council. This identified a need for smaller properties for “down-sizers” and for young family needs and first-time buyers. The overall numbers revealed by the survey were in the range of 55 -89 units over the ten-year period, comprising 23 to 32 market houses, 32- 50 to meet affordable housing needs and 0- 7 for the market rented sector. The emerging South Downs Local Plan’s suggested figure is approximately 20 new dwellings for the Plan Period 2014 - 32. As previously mentioned that plan has not been the subject of its examination and in any event, it is recognised that neighbourhood plans can choose to allocate a greater number of residential units than is set out in the local plan. I also note that the 10 units proposed at Maddoxwood do not lie within the National Park. I do not propose any changes to this policy as it meets Basic Conditions.

Policy LNDP5 High-Quality Design

This is generally an appropriate policy.

However, I am concerned that item three is not necessary in respect of **all** developments. There could be development taking place in the parish, possibly not residential, where adherence to the building line and front boundary treatment may not be appropriate. I will be recommending that the policy be focused on residential

development and a caveat that it is applicable, where it is important to reflect the existing character of the locality. Chichester has also mentioned that the policy should be more flexible.

The other element relates to criterion five which requires all development to incorporate “best practice of sustainable design in respect of drainage, low carbon and energy efficient design”. I have several reservations. Firstly, the Planning Practice Guidance requires that planning policies should be clear and unambiguous. It is required to be “drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications”. In this case the issue is what constitutes “best practice of sustainable design”? It may have implications in terms of design, in meeting best practice, that would militate against some other criteria both in terms of this particular policy and the plan, when read as a whole e.g. in terms of compatibility of design. Secondly, following the Secretary of State’s Statement to the House of Commons dated 25 March 2015, neighbourhood plans are not allowed to include “technical standards or requirements relating to the construction, internal layout or performance of new dwellings”. In terms of energy performance, this is now dealt with under the building regulations. The one area where the government has signaled a higher standard is in the area of sustainable drainage. Following a different Written Statement of the Secretary of State on 18 December 2014 it was announced that after 6 April 2015, all major schemes, whether residential development of 10 or more or its equivalent for non-residential schemes, should ensure sustainable drainage systems management of run-off output is in place. I will propose the removal of that part of the policy as these matters are dealt with, in the main, by the Building Regulations.

Recommendation

Delete “All” and insert “New residential”

In criterion 3 – add at the end of the first sentence “where it is necessary to maintain the existing character of the immediate locality”

Delete criterion 5 and insert “Incorporate Sustainable Urban Drainage Systems”

Policy LNDP6 Development Principles

One issue that has been raised is the requirement for **all** development to reflect on the density of the immediate surrounding area. The question arises whether this is consistent with the desire to introduce small dwellings into the parish to better reflect housing need. This need to reflect the density of the immediate surroundings, particularly in respect to of the allocation sites, could prejudice the objective of building smaller properties. I believe that rather than “reflect” the density, the more appropriate test of the policy is found in the second criterion, which is a requirement that the scale, form and character of the development should be “complimentary to the built environment within the surrounding area”. Whilst the intention of the policy relates to

design of new development it can also be an appropriate test in terms of the amount and size development, so that it does not cause harm to the immediate surrounding area. I therefore propose to recommend the removal of the first criterion and insert density into the second criterion.

The third criterion relates to the need to *maintain* the amenity of the neighbouring properties. As this policy covers all development it could, for example, relate to residential extensions and test should not be one of “maintaining” a neighbour’s amenity but any impact should be such that it does not so adversely harm neighbouring properties so that they no longer retain a good standard of amenity.

The level of protection afforded by the fourth criterion to non-designated heritage assets goes beyond the level set by paragraph 135 of the NPPF which states that the effect of a proposal on the significance of non-designated heritage assets requires a need for a balance judgement to be made having regard to the scale of any harm or loss set against the significance of the heritage asset. I propose to resolve that by removing reference to non-designated heritage assets from this particular policy and allow these assets to be protected by Policy LNDP 17.

I am not sure that the support for proposals which will prioritize the use of brownfield sites is appropriate, particularly in the case of the housing allocations. Would it mean that the development of the Pook Lane site will need to wait until the Eastmead site was redeveloped. I do not consider that to be in line with the intentions of the plan and I propose the deletion of that part of the policy.

Recommendation

Delete “All” at the start of the policy

Delete criterion 1 and insert “density,” after” form” in the second criterion

Replace criterion 3 with “Ensure neighbouring properties maintain a good standard of amenity”

In criterion 4 remove “and undesigned”

Delete criterion 5.

Policy LNDP7 New Dwelling Sizes and Affordable Housing

I find the policy, as written, to be ambiguous. It suggests that schemes of more than three or more dwellings should provide a range of development sizes, but it is not specific that it is smaller units that the housing needs assessment indicates is requiring. It also, as written implies that schemes of three or more dwellings should be providing affordable housing. The policy then goes on to require proposals should comply with other policies set in the appropriate Local Plans. However, in terms of the areas outside National park this will require a financial contribution of schemes

between six and 10 units as per Policy 34 of the Chichester Local Plan. For the areas inside the National Park the affordable housing policies as set out in the 1999 Chichester local plan which have been superceded by an Interim Housing Statement dated September 2007. This seeks 20% affordable housing on sites between 5 and 9 dwellings net and 40 % on larger sites.

In coming to a view on this matter, I have to have regard to the basic conditions test which requires me to balance conformity with strategic policies in the development plan, which in the case of the National park element of the neighbourhood area is out of date, hence the requirement for the Interim Housing Statement prepared a decade ago, in 2007 which the National Park Authority has inherited, and which itself is not part of the development plan. This needs to be set against the Secretary of State's latest published guidance, issued after the Court of Appeal judgement in the Reading BC and West Berkshire DC case, as set out in the Planning Practice Guidance which is aimed at assisting the viability of smaller schemes. This says that local planning authorities should not be seeking onsite affordable housing on schemes of less than 11 units. The guidance is that for schemes of 6-10 units, affordable housing should be sought in the form of commuted cash payments.

The neighbourhood plan or its supporting documents do not provide any evidence regarding scheme viability, which would persuade me to consider a case for departing from national advice.

I need to come to a balanced judgement, having regard to the fact that all the allocations apart from Church Farm Barns and the windfall sites would be following national advice, at least require commuted payments. Maddoxwood if it remained at 10 units could be in that group but if a scheme came in with above 10 units it could have on site affordable housing, as would Eastmead Industrial Estate and the Pook Lane site both of which are likely to generate 40% affordable housing on site. I also need to consider that the Housing Needs Assessment estimates that the level of affordable housing need for the period up until 2024 to be in the region of 32 – 50 units.

I have concluded that I have not been presented with sufficient evidence to justify a lower threshold based on three units as proposed in the policy, when viewed against existing local policy and national guidance. I therefore will be recommending the omission of affordable housing from the first element of the policy and to maintain reference to Local Planning Authorities' policies in terms of the respective requirements for affordable housing. It is open to applicants to argue for a departure from these policies based on viability at the development management stage. The final part of the policy is not to accept commuted sums unless it covers partial units. This is contrary to national and adopted local plan policy and I propose to remove that

element of the policy. Without these modifications, the policy as written would not meet basic conditions, in my view.

Recommendation

Delete from the first sentence “and affordable housing”

Delete the final paragraph of the policy.

Policy LNDP8 Dark Night Skies

The National Park Authority has suggested, for the sake of clarity, that the policy wording should refer to dark *night* skies. I do not consider that it is necessary for me to make that recommendation to meet basic conditions but it is a possible change that the Qualifying Body may choose to make.

Policy LNDP9 Local Economy, Business and Employment

I consider that the first part of policy meets by way of its objectives, the basic conditions. However, the policy is too ambiguous as to when a change of use can be made. For example, how would it be possible for an applicant to demonstrate that there is “no **need** for the employment land/space”. The test should be whether there is no market demand and similar policies in other plans require the applicant to demonstrate that they have marketed the property for reasonable period of time, such as 6 months and no interest has been shown. Otherwise there could always be confusion of whether there is or is not a need for all the employment space.

I am concerned that the locations where the second element of the policies would apply. For example, it would I assume not wish to apply to units on the industrial estate or in established business premises. Is the intention for it to apply for people establishing new businesses at their home? Home working does not ordinarily require planning permission but once other nonresidents are based at the property then a material change of use could be said to have occurred. In which case I consider that the policy does provide sufficient protection from inappropriate levels of usage, when an application is submitted which would be considered against this policy.

Recommendation

In the final sentence of the first paragraph Replace “need for” with “market interest having marketed for at least 6 months”

Insert “in residential properties or other noncommercial premises” and delete everything in brackets

Policy LNDP10 Local Green Space

In terms of the wording of the policy there is a presumption against development on these areas except in very special circumstances. The policy then goes on to state what the two special circumstances are. However, by the nature of very special circumstances, there could be other scenarios which would also constitute very special

circumstances. I propose to allow greater flexibility to give the decision-making a greater degree of discretion in deciding whether the test of very special circumstances is met. I propose to change “these circumstances are...” to “these circumstances could include”.

It has been suggested that the policy should include the list of the designated areas but I do not consider that necessary as the actual extent of the designations are shown on the map.

In terms of the actual areas designated the one piece of local green space that I do not consider meet any of the three criteria is the grassed strip of amenity land on the north side of Lavant Down Road. Whilst I appreciate that it offers views across to the Downs beyond, I do not believe that this area of incidental open space meets a higher threshold required for the designation of local green space. Its character is more akin to the two areas of communal open space within the housing estate which are designated as local community space. I do not consider that this strip of landscaped margin meets the tests in paragraph 77 of the NPPF.

Chichester DC has objected to the inclusion of the Amphitheatre on the basis that it is used more by Chichester residents than Lavant. I do not consider that a convincing argument as it falls within the area covered by Lavant’s Neighbourhood Plan. They also argue that it is an extensive area of land and therefore does not meet the criteria in the NPPF. There is no definition of how big an area has to be to be extensive and whilst it is a large area it is also contained. I walked the area on my site visit and I saw people enjoying this open space, exercising their dogs and children and riding horses and I did believe it is an eminently suitable candidate for protection under this policy.

Recommendation

In the second sentence replace “are” with “could include”

Delete the designation of the land on the north side of Lavant Down Road as Local Green Space

Policy LNDP11 Local Community Space

I have no comments to make in respect of this policy beyond the inclusion of the land north of Lavant Down Road.

Recommendation

Add to Map Extract 2, the Land on the north side of Lavant Down Road as Local Community Space

Policy LNDP12 Retention of Assets of Community Value

I am concerned that the policy is not clear as to what particular valued community assets or facilities are covered by the policy. The justification however does refer to assets which are included in the District Council's Register of Assets of Community Value. The work on identifying and registering assets will be carried out outside the scope of the neighbourhood plan exercise. I do consider it appropriate for the neighbourhood plan to contain a policy that specifically protects those assets, once they have been accepted onto the register. I have therefore recommended, to provide clarity, as to what assets are protected by referring specifically to any which have been accepted on the register. I have noted the schedule in subsection 3 of the Community Matters evidence paper. I am conscious that many of the land areas identified are either within the ownership or control the Parish Council or are in some ways protected by other policies in this plan. There is a typographical error, which I can correct- it should be "or" between asset and facility".

Recommendation

Replace all references to "valued asset or facility" with "registered Assets of Community Value"

Policy LNDP13- Biodiversity Opportunity Areas.

I have concluded that the identification of biodiversity opportunity areas, which form part of the wider Sussex Biodiversity Action Plan, is in line with the taking of a strategic approach to such matters, as set out in section 11 of the NPPF and in particular paragraph 117.

Having said that, the policy, as drafted, places a positive obligation on all development to protect or enhance habitats identified in The Biodiversity Opportunity Area Statement. It took me a lot of research on the internet to finally source the relevant statements and I consider that it would be unreasonable to expect all planning applicants to identify what habitats they are required to have regard to. By the nature of the types of development that are likely to affect the types of habitats affected, these would only really affect the development of greenfield sites. I therefore propose to relate the policy to these developments only. Chichester District Council objected to the requirement to apply to all development.

Recommendation

Insert "greenfield" after "All"

Policy LNDP14- Landscape character and key views

I place great importance on this policy. Not just having experienced and appreciated these stunning views both into and out of the village when I carried out my site visit but also because it underscores both of the objectives of National Park policy. The emerging South Down Local Plan recognises the role of neighbourhood plans in identifying important views. I am satisfied that the identified views are appropriate. The

policy puts a requirement on all applicants to produce a landscape assessment although that recognises it needs to be proportionate to the proposed scale of development. I do not consider that it is a necessary requirement in respect of domestic extensions or other minor development.

Recommendation

After “Applications”, insert “other than residential extensions and alterations and other minor developments”

Policy LNDP 15 Floodplain and reducing flood risk

I am concerned that the extent of the area shown as liable to flooding, set out in Map Extract 3 – The Environment and Sustainability, refers to a “core floodplain”. I believe this it is important for a development plan, to utilise the flood categories used by the Environment Agency, namely Flood zones 2 and 3. I also consider the plan should be based on the Environment Agency’s published flood maps, which show a larger area in Lavant at risk from flooding, to that shown on the neighbourhood plan in the above map. I also consider because of the way the core flood plain is shown on Map Extract 3 it is impossible to identify, at the margins, whether a particular site is covered by the policy or not. I am therefore recommending that the area shown as liable to flooding in the neighbourhood plan be replaced by one based on the Environment Agency Flood Maps.

The policy as written does not accord with national or local policy as it only appears to require sequential approach to essential infrastructure and community/resident recreational facilities only. That is not the approach as set out in the NPPF. This requires that no development should take place in areas at risk from flooding, unless it can be shown that there are no sites where it would be possible to locate that development, in an area at lower flood risk. If having adopted a sequential approach, it shows the development must be sited in a flood risk area, then it must be designed to be flood resilient and resistant and have a safe means of escape. The need for a sequential test does not apply to changes of use or residential extensions.

The difficulty with the current proposed policy is illustrated by reference to the Church Farm Barns Site (LNDP22). It is impossible to say whether it is in the core flood plain in Map Extract 3 but the site is clearly shown in the EA’s map as being in an area liable to flood. Under the current wording of the policy, a residential redevelopment would not be appropriate. However, adopting a sequential approach the SDNPA has demonstrated that there are no more appropriate sites for this development and therefore the site can still be allocated in the Plan.

The second element of the Policy LNDP15b – Reducing Flood Risk – deals with surface water run-off from both greenfield sites and previously developed land. West Sussex County Council has pointed out that DEFRA Guidance Sustainable Drainage Systems: non-statutory technical standards for sustainable drainage systems, set a

recommendation that a development's drainage system for run off rates from previously developed sites should "be as close as reasonably practical to the greenfield run off rates from the development for the same rainfall event but should never exceed the rate of discharge from the site prior to its redevelopment'. I consider that the policy as written goes beyond national advice and could prevent development taking place through its over onerous standards, which could possibly prevent the development of the Eastmead site and accordingly I will be recommending a modification to that element of the policy.

Recommendation

On Map Extract 3 remove "Core Floodplain "and insert into the Neighbourhood Plan a separate plan showing the Environment Agency Areas at Risk from Flooding for the neighbourhood plan area.

Replace the wording of LNDP15a with "No development should take place in areas at risk from flooding on the Flood Map, unless it can be shown that there are no sites where it would be possible to locate that development, in an area at lower flood risk. If having adopted a sequential approach, it shows the development must be sited in a flood risk area, then it must be designed to be flood resilient and resistant and have a safe means of escape. The need for a sequential test does not apply to changes of use or residential extensions"

Delete in the final paragraph of LNDP 15b everything after "will be" and insert "as close as reasonably practical to the greenfield run off rates from the development for the same rainfall event but should never exceed the rate of discharge from the site prior to its redevelopment'

Policy LNDP16 Microgeneration and Renewable Energy

I have no concerns regarding this policy which meets basic conditions.

Policy LNDP17 Conserving and Enhancing Local Heritage Assets

As the Planning Practice Guidance states in para 007 (reference ID 18 A- 007-20140306) non-designated heritage assets can be identified in neighbourhood plans. This neighbourhood plan could, if it had chosen to, have identified what are considered locally important buildings as non-designated heritage assets as well as Parish Heritage Assets. In order to provide clarity for those users of the plan in due course, I will propose to call all these assets covered by the policy- non-designated heritage assets. Therefore, any locally listed building and monuments that are currently identified can also include those designations made in the future and will be covered by the policy.

The new requirement within a policy to require a planning application to be accompanied by a particular document is not within the gift of a neighbourhood plan. The documents required to be submitted with a planning application are set out in the

Local Validation Checklist set by the Local Planning Authority. This is a point made by Chichester DC. What the policy can do is require an assessment of the significance of the asset and the extent of harm to the historical significance of that asset arising from the proposed development.

When it comes to decision making, the proper test is not whether the proposal necessarily merely protects or enhances the asset, but rather that any residual harm, which cannot be avoided or mitigated, should be assessed against the benefits that would be delivered by the development taking place. This is a point made in the representation of Historic England and I propose to recommend the modification of the policy in accordance with their recommendation to bring it in line with Secretary of State policy.

The policy also refers to landscape features which goes beyond the matters of local heritage assets which the policy purports to be addressing. I recommend the removal of this elements from its remit.

I have looked carefully at the nine proposed local heritage assets set out in the Plan. My only reservation relates to the inclusion of Centurion Way. This route is only of significance in terms of it following the course of the old railway line. I do not consider it falls within what can ordinarily be covered by heritage policies in the way that a building or structure would. The equivalent would be to protect the site of a former historic building. However, I do consider that the railway bridges will fall within that category as physical remnants of the former railway in the same way as the other pieces of railway infrastructure had been retained.

Recommendation

In the first sentence of the second paragraph replace “the impacts do not detract from the significance of the asset” with “the potential harmful impacts to the asset’s significance has been clearly identified and avoided or minimised where possible and that unavoidable harm would be clearly justified by public benefits delivered by the scheme.”

Delete “its landscape”

In Insert in 2d “bridges” after “Centurion Way” and remove “(including the bridges)”

Policy LNDP18 new public rights of way

This policy accords with the objectives set out in paragraph 77 of the NPPF and I am satisfied that it complies basic conditions.

Policy LNDP19 residential off road parking

The policy refers to *all* residential development. That could cover some types of specialist housing that a universal residential car parking standard may not be appropriate e.g. elderly person accommodation. I propose to clarify the extent by

referring to new dwellings. I do not believe there is justification for requiring each dwelling to have a visitor parking space. In some developments visitor parking is capable of being delivered communally. To adopt the standard would mean that the Pook Lane site having at least 45 car parking spaces for 15 two bedroom houses. As South Downs National Park Authority point out this level of parking provision could have a very urbanising effect on the environment. I note that there has been one representation from a developer objecting to the proposed standard but I believe that the standard is based on evidence and this is a matter that can be one where a locally derived policy is appropriate.

Recommendation

Replace “All” with “New”

Remove item 2)

Policy LNDP20 Effective Traffic Management

This is the one policy that goes beyond the remit of a neighbourhood plan which is to have development plan policies that deal with “the use and development of land”. The matters covered by the policy are all matters that fall within the remit of the local highway authority rather than the planning authority. They are highway management measures and whilst important to the village, they would be more appropriately be located, within the Community Matters section of the plan. This is in line with the Secretary of State advice. I will be recommending that the policy be deleted as a development plan policy.

Recommendation

That the policy be deleted and moved into the Community Matters section of the Neighbourhood Plan

Policy LNDP 21 Land adjacent to Pook Lane

It appears that there is a contradiction between this policy which provides for circa 15 two bedroom houses and Policy LNDP7 which require schemes of over three units to provide for “a range of dwelling sizes”. Rather than be explicit as to the size of dwellings that need to be provided, I propose to remove the requirement for these to be two-bedroom units only and allow that matter to be judged against the requirements of Policy LNDP7.

In order for there not to be a loss of playing fields and in accordance with paragraph 74 of the NPPF, I will propose a modification to insert a requirement into the plan, requiring the provision of the replacement football pitch before work is commenced on new housing. This will provide continuity of use. The provision of the raised speed table is really a matter for the Highway Authority to sanction. It should not be a really pre-requisite to the overall development package. I propose to introduce the caveat “if approved by the highway authority”.

From my site visit I believe this is an acceptable allocation that will provide much-needed housing in the heart of the village and also provide for improved amenity and sports facilities for the village.

I note that a local resident has requested that a footpath should be provided either along Pook Lane, which I cannot see as being justified as a result of the development or a footpath to cross the site to link with an existing hole in the hedge. I consider that this is a matter than could be covered when a detailed layout is available at the development management stage, if it was considered necessary.

Historic England has raised an objection that goes to the heart of the basic conditions based on the impact on the ancient monument and the archaeological potential of the site. I propose to add a requirement as recommended by Historic England. They also have a concern that houses should front on to the Devil's Ditch. I believe that this is already shown on the indicative plan which accompanies the policy and will be a relevant consideration at planning application stage.

Recommendation

In 1) delete "2 bedroom"

In 6) insert at the end "if approved by the Local Highway Authority"

In 7) after "provided" insert "before building operations are commenced on the new houses"

Insert a new requirement 11) "Any application should be informed by a programme of archaeological survey and investigation according to a written scheme of investigation agreed by the council's archaeological advisor. The design of the development should take the findings of these investigations into account in order to preserve any remains of national significance in situ, the unavoidable loss of any remains of local interest will need to be robustly justified."

Policy LNDP22 Church Farm Barns

Whilst technically agricultural buildings in agricultural use would not fall within the definition of previously developed land as set out in the glossary to the NPPF, I consider that is of no significance to this allocation. I do have some reservations required regarding the language of the policy wording - which refers to "harm to local interests" – which could cover anything. I propose to amend the wording to reference to "amenity and highway safety".

In terms of the requirement for a new footpath to be situated between New Road and Fordwater Road, some of which I noticed on my site visit, already exists behind the hedge, I can see no planning requirement which generates the need arising from this development to provide this footpath, as I consider that most pedestrian movement would be between the site and the village facilities to the north. I can see the potential

to connect up with the footpath linking down to North Chichester and the footpath is shown in Map Extract 5. However, the test of a planning obligation, as this would have to be, is whether it is necessary to make the development acceptable in planning terms. I appreciate that the provision of the link is supported by the National Park Authority and this could be a matter for negotiation but I do not believe it can be a requirement that can be imposed on the development of this site as the need for the footpath does not arise from the carrying out of the development.

I note that the Environment Agency has raised concerns that part of this site falls in Flood Zone 2. The SDNPA has carried out a sequential test on this development and I am content for the allocation to remain in the plan. They have recommended an additional criterion to require a site-specific flood risk assessment which I am happy to recommend to accord with national advice for development at risk from flooding.

Recommendation

Insert “amenity and highway safety” between “local” and “interests”

Remove text from 2) and replace with “Any application must be accompanied by a site-specific flood risk assessment that demonstrates that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, wherever possible, reduce flood risk overall. Flood risk management measures which may be incorporated include;

- Floor levels raised 300mm above the modelled 1 in 100 year + climate change flood level
- Appropriately sized attenuation, for the safe retention of surface water on site in order to control flows, to ensure that post-development surface water run-off will be no higher than existing; and
- Use of Sustainable Drainage Schemes (SuDS) e.g. permeable paving and swales, to drain surface water from the proposed areas of hardstanding. Such measures may include rainwater harvesting and associated management plan.
- Provision of raised walkways and vehicular access to ensure safe, dry egress and access from the site during a flood event
- Preparation of a Flood Evacuation Plan
- New residents should be encouraged to sign up to Environment Agency flood alerts”

Policy LNDP 23 Eastmead Industrial Estate

This has been one of the more controversial allocations in the Lavant Neighbourhood Plan. I have placed particular regard to the comments of the Chichester District Council’s Economic Development Officer and those of the SDNPA. In particular, I place importance on the adopted 1999 development plan - Policy B8, which seeks to avoid the loss of employment land. However, when I carried out my site visit, I was struck by the significant number of vacant units and also that the accommodation appears somewhat dated considering modern business requirements. It is clear that

the redevelopment of the site for housing enjoys substantial public support. I believe that the biggest challenge is to strike the right balance between residential and employment uses. It is clear from representations that there have already been constructive discussions between the representatives of the site owner and the Parish Council. It proposes a pragmatic approach, with a mix between uses to be based upon viability information. My only concern is that, if this is based on a financial appraisal which assumes no public financial support, then the amount of the site allocated for business units could be squeezed. I note that funding could be sought from Coast to Coast Local Enterprise Partnership to support the affordability of the employment uses. I am proposing that the policy be slightly amended to require that the financial assessment should have regard to the provision of a realistic level of public financial support for the new units so that the employment component is not to be marginalised.

Southern Water argue that the policy does not meet basic condition as the requirements regarding drainage capacity are not included in the policy, only in the supporting text. I propose to make that modification as one of my recommendations.

Recommendation

Insert after “viability assessment” “including a realistic allowance for any public-sector grant funding”

Insert 2 additional requirements “6) The development will need to provide a connection to the nearest point of adequate capacity in the sewerage network, as advised by the service provider”

And “7) The layout of the development must be planned to ensure future access to the existing sewerage infrastructure for maintenance and upsizing purposes”

Policy LNDP 24 Maddoxwood House

My only concern with the policy is the requirement that an application must be made to WSCC highways to extend the 30-mph speed limit prior to occupation of any of the units. I do not believe that it is incumbent upon the developer to have to make such an application. As part of the development management process the planning authority, as advised by the Highway Authority, will need to be satisfied that a safe and acceptable access can be created without the reduced speed limit being in place. This is because planning permission would have been granted and indeed implemented before an application needs to be made. I believe that the Highway Authority is capable of examining the need for a change in the starting point of the speed limit, if consent is granted bearing in mind the current levels of traffic making turning movements along this section of road from the retail store and the petrol station, both of which are also outside the 30-mph limit.

It is clear that there are drainage capacity issues in the area generally and this is picked up in relation to this site by both Chichester DC and Southern Water. This is a

wider issue and is not solely relates to Lavant and I know that measures are being brought forward to provide the local infrastructure needed to cope with the overall levels of housing development in the area. I suspect the matter is one of timing of the delivery of the housing on this site, possibly to the bringing online of the infrastructure for handling waste water. I will follow the suggested wording from Southern Water in my recommendations.

It is possible for in the Community Matters section of the Plan to include a proposal for the Parish Council to take the initiative and request the changing to the 30 miles an hour speed limit, if planning permission is granted. The Parish may wish to move that requirement to the Community Matters section of the Plan document.

Recommendations

Insert after 1) “or a connection to the nearest point of adequate capacity in the sewerage network will be made, as advised by the service provider”

Delete 3)

Policy LNDP25 – small-scale housing sites.

This is essentially not a site allocation policy but rather is a windfall policy that allows sites of 5 units or less to be built on land within settlement boundary on land which is not protected by the other policies in the plan.

The requirement of this windfall development that it must comply with specific policies set out the policy could cause confusion if different matters, which are covered by other policies in the plan and indeed local plan policies, could also be relevant but are not mentioned in the policy. I am therefore recommending the deletion of the specific requirements to avoid a situation where an applicant may have met the specific criteria set out in this policy but failed to meet the requirements of other policies in the development plan. This will cover both the local plan situation as well as the neighbourhood plan.

Recommendation

Delete everything after “supported” and insert “subject to compliance with other policies in the development plan”

The Referendum Area

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

Summary

Whilst I have had to make a number of minor changes to the Plan policies I believe that the Lavant residents will broadly recognise the plan that has emerged from the examination process. All the changes I have recommended as modifications are required to ensure that the Plan meets the basic conditions test and the other requirements set out in neighbourhood plan examination.

Lavant is a beautiful village set at the gateway to the South Downs. This is a plan that will protect what is important to the village and its residents as well as visitors to the area. It takes a positive approach to new development backed up by a robust housing needs assessment which will hopefully provide much needed affordable housing. I must congratulate the Steering Group on the professional way that it has approached the plan making process. There is a robust evidence base and obvious signs of significant community engagement that has shaped the plan.

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 the Plan, as amended, if successful at referendum, be made.

I am therefore delighted to recommend to the South Downs National Park Authority and Chichester District Council that the Lavant Neighbourhood Development Plan, as amended by my recommendations, should now proceed to referendum.

JOHN SLATER BA(Hons), DMS, MRTPI

John Slater Planning Ltd

Date