

DITCHLING STREAT AND WESTMESTON NEIGHBOURHOOD DEVELOPMENT PLAN (NP) MAY 2017

EXAMINER'S STATEMENT OCTOBER 2017

Christopher Lockhart-Mummery QC

Independent Examiner

Introduction and procedural aspects

1. I have been appointed by the South Downs National Park Authority (SDNPA) with the agreement of the Qualifying Body (Ditchling Parish Council, QB) to undertake this examination. Part of the designated neighbourhood area falls outside the National Park, the local planning authority for that area being Lewes District Council (LDC). I assume that I have been jointly appointed by SDNPA and LDC, but would like confirmation to that effect.
2. It is of crucial importance that this examination is carried out openly and transparently, so that all those who have an interest in the NP can at all stages see what is going on. To that end, whilst I intend to communicate directly with SDNPA (Amy.Tyler-Jones@southdowns.gov.uk), I will assume that all such communications will be copied to LDC and the QB. Please confirm, and if either LDC or the QB would prefer direct communications, please say so.
3. Also, I am aware that the two local planning authorities and the QB each have a website for the NP. I will assume that all communications from and to me will be accessible on those sites.
4. Although the NP was originally presented for examination described as “less complex”, it is already clear to me that there are considerable complexities involved, some of which are

referred to below. Notwithstanding this, my provisional view is that a hearing is unlikely to be necessary. I shall, however, keep this matter under review as the examination progresses.

5. This Statement requests further information, and seeks clarification, on certain key matters.

It also raises certain legal and procedural concerns. Until I am clearer on these matters, I cannot set an examination timetable. I will do so as soon as I can following responses to this Statement.

6. I will carry out an unaccompanied site visit to the NP area in due course.
7. So that there is certainty on the point, I record the documents that I have so far received:
 - a. The NP, Formal Submission version May 2017.
 - b. Supporting Documentation Volumes 1 and 2, May 2017.
 - c. SEA Screening Assessment September 2017.
 - d. HRA Screening Statement September 2017.
 - e. Equalities Impact Assessment July 2017.
 - f. A folder of policy papers and other supporting material.
 - g. A folder containing Regulation 16 representations, from 20 representors.

Consultation Statement

8. Under regulation 15 of the Neighbourhood Planning (General) Regulations 2012, the submission of a plan proposal to the local planning authority must include “a consultation statement”. This is defined as a document which:
 - a. contains details of the persons and bodies who were consulted about the proposed neighbourhood development plan;

- b. explains how they were consulted;
 - c. summarises the main issues and concerns raised by the persons consulted; and
 - d. describes how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan.
9. Supporting Documentation Volume 1 includes (at pp11-92) a document called Public and Agency engagement programme. I have not been supplied with a document entitled Consultation Statement, and assume that pages 11-92 are intended to comprise such a statement. Is this correct? If so, I can find no summary as required under c., nor a description as required by d. This concern needs to be addressed before the examination can get under way.

The development plan

10. There are many inaccuracies and inconsistencies in both the NP and the Basic Conditions Statement as to the status of the statutory development plan.
11. As I understand it, the development plan comprises (and comprises only):
- a. The saved policies of the Lewes District Plan 2003.
 - b. The Lewes District Local Plan Part 1: Joint Core Strategy 2016.
 - c. The East Sussex, South Downs and Brighton and Hove Waste and Minerals Local Plan 2013.
 - d. The East Sussex, South Downs and Brighton and Hove Waste and Minerals sites plan 2017.

12. Please confirm whether the above is correct. If so, I would be grateful for hard copies of a.

and b.

13. Policies SP1 and SP2 of the JCS were, so far as affects the SDNP only, quashed by the High

Court on 20 March 2017. This raises 3 questions:

- a. What are (now) the “strategic policies” of the development plan with which the NP must generally conform? No specific guidance on this important point is, so far as I can see, provided in the documentation. I note the Table of policy conformity at pp5-7 of the Basic Conditions Statement. Are all the policies in the 3rd column taken to be strategic policies? What about Policy CT1 of the Lewes District Plan 2003, referred to at paragraph 14 below?
- b. Subsequent to the quashing, page 24 of the NP indicates further actions being taken. So far as further HRA screening is concerned, I understand that there would be no likely significant effects from the allocation of 15 additional dwellings (net) when considered on a solus basis; cumulative effects are being addressed through the HRA of the emerging SDNP Local Plan; this was due for publication in September 2017. Is this correct? Has the assessment been published?
- c. In the light of the above, will the present state of the development plan (including, eg, the absence of SP1 and SP2) remain during the examination?

General conformity

14. The development plan includes Policy CT1 of the Lewes District Plan 2003, whose terms are set out at page 23 of the NP. The policy would contain all development within planning boundaries. Accepting that this policy is inconsistent with the NPPF, it remains part of the development plan. NP Policy HSG7A proposes the largest allocation in the plan outside the settlement boundary (which would be extended accordingly). I can see no evidence that the relationship between this policy and CT1 was considered. Indeed, the table of general conformity in the Basic Conditions Statement does not even mention the Lewes District Plan (a material omission). Am I correct in this?

Other aspects of the NP

15. I have three additional queries, at this stage, on the NP itself.

16. The first relates to development in the countryside. As I understand it, the whole of the NP area save that within the settlement boundary of Ditchling (as to be extended under Policy HSG7A) is in countryside. I believe that both the two industrial estates adjoining Ditchling Common, and the complex of St George's Park, are in countryside. Am I correct so far?

17. Following on from this, Policy HSG1 is under the heading "housing land use policy". But (confusingly) it deals with other land uses as well. Policy CONS1 also deals with the settlement boundary. As SDNPA suggest, would it not be better for there to be, as the first policy in the NP, a general policy providing for what will be permitted/restrained within and outside the settlement boundary of Ditchling?

18. Second, where is Appendix A referred to at pages 36 and 38?

19. Third, ESCC states that some of the land within site HSG7B (Lewes Road/Nye Lane) is common land and highway land. If so, this would question the deliverability of this site. Is there any evidence in the material I already have that deals with this point? I am not, at this stage, inviting further evidence on the point.

Christopher Lockhart-Mummery QC

Examiner

11 October 2017