

The Hamsey Neighbourhood Plan

Report of Examination

Report to Lewes District Council

by the Independent Examiner:

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4 January 2016

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Summary

1. From my examination of the submitted Hamsey Neighbourhood Plan and its supporting documents, including all the representations made, I have concluded that, with modifications, the making of the plan will meet the Basic Conditions. In summary they are that it must:
 - Have regard to national policies and advice;
 - Contribute to the achievement of sustainable development;
 - Be in general conformity with the strategic policies of the development plan; and
 - Not breach, and be otherwise compatible with, European Union and European Convention on Human Rights obligations.
2. I have also concluded that:
 - The plan has been prepared and submitted for examination by a qualifying body - Hamsey Parish Council;
 - The plan has been prepared for an area properly designated; and does not cover more than one neighbourhood plan area;
 - The plan does not relate to “excluded development”;
 - The plan specifies the period to which it has effect – to 2030; and
 - The policies would, once some are modified or removed, relate to the development and use of land for a designated neighbourhood area.
3. I recommend that, once modified, the plan should proceed to a Referendum. This is on the basis that I have concluded that making the plan will meet the Basic Conditions once modified.
4. If the plan goes forward to Referendum, I recommend that the Referendum Area should be the same as the Neighbourhood Plan area.

1. Introduction

- 1.1 I am appointed by Lewes District Council and the South Downs National Park Authority, with the support of Hamsey Parish Council, the Qualifying Body (the Parish), to undertake an independent examination of the Hamsey Neighbourhood Plan, as submitted for examination.
- 1.2 I am a planning and development professional of 40 years standing and a member of NPIERS' Panel of Independent Examiners. I am independent of any local connections and have no conflicts of interests.

The Scope of the Examination

- 1.3 It is the role of the Independent Examiner to consider whether making a neighbourhood plan meets the "Basic Conditions." These are that the making of the Neighbourhood Plan must:
- have regard to national policies and advice contained in guidance issued by the Secretary of State;
 - contribute to the achievement of sustainable development;
 - be in general conformity with the strategic policies of the development plan (see Development Plan, below) for the area; and
 - not breach, and must be otherwise compatible with, European Union (EU) and European Convention on Human Rights (ECHR) obligations.
- 1.4 Regulations also require that the Neighbourhood Plan should not be likely to have a significant effect on a European Site or a European Offshore Marine Site either alone or in combination with other plans or projects.
- 1.5 In examining the Plan I am also required to establish whether:
- The Neighbourhood Plan has been prepared and submitted for examination by a qualifying body;
 - The Neighbourhood Plan has been prepared for an area that has been designated under Section 61G of the TCPA as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004 (PCPA).
 - The Neighbourhood Plan meets the requirements of Section 38B of the PCPA (i.e. the Plan must specify the period to which it has effect, must not include provisions about development that is excluded development, and must not relate to more than one Neighbourhood Area); and
 - The policies relate to the development and use of land for a designated Neighbourhood Area in line with the requirements of Section 38A of the PCPA.
- 1.6 Finally, as Independent Examiner, I must make one of the following recommendations:
- a) that the Plan should proceed to Referendum, on the basis that it meets all legal requirements;
 - b) that the Plan once modified to meet all relevant legal requirements should

proceed to Referendum; or

- c) that the Plan does not proceed to Referendum, on the basis that it does not meet the relevant legal requirements.

- 1.7 If recommending that the Plan should go forward to Referendum, I am also then required to consider whether or not the Referendum Area should extend beyond the Neighbourhood Area to which the Plan relates. I make my recommendation on the Referendum Area at the end of this Report.

The Examination process

- 1.8 I commenced initial preparation for the examination of the plan in November 2015 by reading the plan documents. The default position is that neighbourhood plan examinations are conducted by written representations.

The Examination documents

- 1.9 In addition to the legal and national policy framework and guidance (principally The Town and Country Planning Acts, Localism Act, Neighbourhood Plans Regulations, the National Planning Policy Framework and the Planning Policy Guidance) together with the development plan (see section 3), the relevant documents that were furnished to me, and were identified on the Parish and Council's websites as the neighbourhood plan and its supporting documentation for examination, were:

- Hamsey Neighbourhood Plan – September 2015 Submission version
- Basic Conditions Statement;
- Consultation Statement and appendices;
- Strategic Environmental Assessment Statement of Reasons; and
- Background information, including the draft Local Plan.

The Qualifying Body and the Designated Area

- 1.10 Hamsey Parish Council is the designated Qualifying Body for the geographical area that is the neighbourhood plan area. Lewes District Council, the lead authority for this neighbourhood plan, designated the Neighbourhood Area in October 2012. There is no other neighbourhood plan for this area.

The Neighbourhood Plan Area

- 1.11 The plan area lies in the rural part of the District, some 3 miles (5km) north of the County town of Lewes. It comprises 1144 hectares and some 250 homes, across five main settlements - Cooksbridge, Old Cooksbridge, Offham, Hamsey and Bevern Bridge. It lies in a distinctive downs landscape, with roughly half the parish (in a diagonal line) falling within the South Downs National Park.
- 1.12 There are few facilities, with what there is mainly located in Cooksbridge, which grew up around the station. Here one can find a primary school and a community hall (with its adjacent recreation ground). There are a few pubs but no shops; two historic churches (One ancient, at Hamsey) and some employment facilities concentrated in Cooksbridge.

- 1.13 The A275 forms the main spine for road communications, crossing the railway line and the station, which offers travel to London and, in the other direction, Lewes and beyond. The timetable is limited outside peak hours; as is the quantum of parking. There is no local shop.

2. Neighbourhood Plan preparation and public consultation

- 2.1 The Neighbourhood Plan grew out of the local communities concerns to have a greater degree of control over emerging housing targets for the main village of Cooksbridge and indications of an increase in the number of traveler pitches.
- 2.2 The Parish began to explore the potential of neighbourhood planning in late 2012 and went into 2013 by carrying out a number of public meetings and consultations seeking the views of local residents, businesses and other stakeholders. The aim of the plan, which grew out of these consultations, was to deliver long-term goals of maintaining and improving the beautiful environment of the Parish and to help provide an outstanding quality of life for future generations (plan para 1.5).
- 2.3 The dominant influence on the development of the plan was the need, as the Parish saw it, to plan for the minimum of 30 additional homes that was part of the emerging Local Plan for the District. The submission plan is the result of 2 years of hard work by a Steering Group, initiated by the Parish Council in January 2013 and subsequently driven by a high level of community consultation and involvement, as set out in the Consultation Statement.
- 2.4 The Parish has a small population and so a consultation exercise is needed that is proportionate to that and the issues it is dealing with. I am satisfied that the steps taken, as set out in the Consultation Statement are an appropriate and considered response to the need to engage local residents and stakeholders.
- 2.5 The Parish received 40 separate responses to the pre-submission version of the plan. These – and the Actions to be taken in response - are set out clearly in the Regulation 14 Consultation Statement. In addition the plan was the subject of a NPIERS Health check.

Environmental Assessment and EU Directives

- 2.6 Under Article 3(3) and 3(4) of the Strategic Environmental Assessment (SEA) Directive 2001/42/EC SEA is required of plans and programmes which “determine the use of small areas at a local level”. The District Council is the “responsible authority” and must determine whether the plan is likely to have significant environmental effects. They determined in November 2014 (as set out in the September 2015 SEA Statement of Reasons) that the plan would not have such effects.

European Sites and the Habitats Directive

- 2.7 From the context and submitted material, I have concluded that the plan would not be likely to have a significant effect on a European Site.

Examination version – public consultation

- 2.8 The Draft Plan was submitted to the Council in September 2015. The Council published the Draft Plan, under Regulation 16, with all supporting documents, for a 6-

week period of public consultation, from 29th September 2015, ending on 10th November 2015. A total of twelve representations were received. The more substantial representations were largely made by the statutory consultees, as well as Rydon Homes, on a range of issues:

- Highways England made minor representations.
- Southern Water suggested a new policy on utility infrastructure and made some suggested drafting modifications.
- Rydon Homes made some drafting suggestions to one policy.
- South Downs National Park Authority welcomed the plan and made a number of drafting suggestions to improve the plan.
- Natural England was supportive of the plan's focus on the protection and enhancement of green spaces. They made some suggestions for improving the drafting of the relevant policies.
- East Sussex County Council made some drafting suggestions on one transport policy.
- Historic England supported the plan and also made some drafting suggestions on a heritage policy and its supporting text.
- Henry Dodson made some comments on the main housing site and also on some of the policies.

Human Rights

- 2.9 I have no reason to believe that making the plan breaches or is incompatible with the European Convention on Human Rights.

Plan period

- 2.10 The neighbourhood plan states clearly that the plan covers the period to 2030, which is co-terminus with the emerging Lewes District Joint Core Strategy prepared by Lewes District Council and South Downs National Park Authority. The Adopted Local Plan (2003) is out of date, having planned to 2011.

3. The Neighbourhood Plan in its planning and local context

National policies and advice

- 3.1 The neighbourhood development plan (NDP) must have regard to national policies and advice contained in guidance issued by the Secretary of State and contribute to the achievement of sustainable development (the first two Basic Conditions). Paragraph 16 of the National Planning Policy Framework (the Framework) is concerned with neighbourhood planning: *"The application of the presumption [in favour of sustainable development] will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:*

- *“develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development; [and]*
- *plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan;”*

3.2 The plan must give sufficient clarity to enable a policy to do the development management job it is intended to do; or to have due regard to Guidance. For example, para 042 of the Guidance explains that:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

3.3 Also, there has to be evidence to support particular policies, notwithstanding it may express a strong and well-intentioned aspiration or concern of the local community; the relevant policy sections. Paragraph 040 of the Guidance includes:

“While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.”

3.4 The Basic Conditions Statement sets out how the Parish considers that the plan meets the relevant Framework policies; though there is no mention of the National Planning Practice Guidance (the Guidance). It also sets out how it is in general conformity with the development plan; though it also refers to the emerging Joint Core Strategy, Lewes District Local Plan Part 1. As this is not part of the development plan I have not taken it into account.

The Development Plan - strategic policies

3.5 The neighbourhood development plan must be in general conformity with the strategic policies of the development plan for the area. I am advised by the District Council that the development plan for the plan area comprises the saved policies of the Local Plan (2003), which is now well out of date. There are no relevant strategic policies in that plan that specifically relate to Hamsey (other than HY1 relating to development of the Hamsey Brickworks); nor are there any relevant housing targets, although I acknowledge that there are district-wide strategic level policies (e.g. CT1).

The Neighbourhood Plan and its objectives

3.6 The plan’s strapline is “Sustainable Growth for the Whole Community”. The community’s Vision for their plan area (section 4) involves six main themes, to:

- Maintain and improve the quality of the rural environment
- Improve the infrastructure, particularly for non-car use

- Evolve and grow sustainably
- Help provide for an outstanding quality of life for future generations
- Plan for sustainable development; and
- Continue to respect and reflect the views of the community.

- 3.7 The plan's eighteen objectives, which give the vision and expression and shape the policies and projects, are primarily concerned with ensuring that future development is sympathetic to, and improves, the character of the plan area. In doing so it seeks to accommodate some new development while protecting the features that the local community considers to be important – the rural character of the parish and villages, together with some valued green spaces.
- 3.8 While the plan, in setting out its objectives, acknowledges that it is planning to accommodate more housing, this comes in eighth place; and it does so in the context of a fairly protectionist set of objectives. Nevertheless, I have concluded that overall the plan is still positively prepared and that it does promote sustainable development.
- 3.9 The plan does not allocate any sites for housing though it overtly supports 30 new homes on the Covers site at Cooksbridge. As this site already has consent for 25 houses, it effectively plans to inform future allocations made through the emerging Local Plan and potential windfalls.
- 3.10 Around this strategy, the plan seeks to protect four main local green spaces, promote and protect the retention of local services and to advocate for certain actions, called Projects – effectively not land use policies – to secure certain facilities, such as better bus and train services, footpaths, additional parking and support for a shop.
- 3.11 The plan has five core themes which led to a series of topic chapters, which in turn determine the plan's structure:
- Landscape and Environment (inc Local Green Spaces)
 - Health and Wellbeing
 - Housing Growth and Development
 - Transport and Travel
 - Education
 - Recreation and Sport
 - The Local Economy
- 3.12 Each topic chapter concludes with a set of policies as well as what the plan calls Projects. The Contents section explains the difference: Policies will be used by the local planning authority to make decisions on planning applications (see p 5); while Projects “are community-led and will require collaboration with relevant authorities”. The Welcome page explains (1.5) that to meet its aims the plan “incorporates both a development plan (Policies) and a local action plan (Projects). Taken together, they

constitute a significant part of the plan.

- 3.13 The Guidance advises that such parts of the document should be clearly distinct from the land use policies and could be best located in a separate document or annex. **I recommend** that in all cases, given the extensive nature of these Projects, that they all should form a separate annex at the end of the plan document. I do not make any comments or recommendations in relation to these.

4. Landscape and environment; health and wellbeing

- 4.1 This chapter of the plan covers a wide range of subjects - character, flooding, habitats, pollution, biodiversity, climate change, heritage assets and Local Green Space designations, along with a summary of community feedback on these topics.
- 4.2 The plan adopts the Local Plan's Settlement Boundary for "New" Cooksbridge, shown on an unnumbered plan on page 42. There is no real explanation of why the Parish have not themselves reviewed it, given that plan is out of date. Policy EN1 resists development outside the boundary.
- 4.3 Rydon Homes point out that this policy should not be worded in the negative but in the positive and suggest suitable drafting.
- 4.4 Southern Water are concerned this might deny the delivery of essential utility infrastructure. I would regard their point as being capable of being considered with a new policy, along the lines they recommend – see my modifications to the housing growth and development chapter. I am not persuaded that the policy should be worded in the positive; it is capable of being applied as it is.
- 4.5 However, **I recommend** that Policy EN1 be modified to be made clearer, by simply referring to the "New" Cooksbridge Settlement Boundary (and give the plan on page 42 a number and that title).
- 4.6 The next most significant policy, EN2, designates four sites as Local Green Space. The context of the designations and the descriptions of the four sites are set out in section 7.2. Maps (un-numbered, again) of each one are found on pages 24, 26, 27 and 28, with a summary map – reproduced in a number of places – on page 23. All these maps need a unique reference. There are no objections to these designations, apart from Southern Water, who feel it could create a barrier to the delivery of essential infrastructure. They are not specific about the four sites.
- 4.7 Any designation of a Local Green Space must comply with the policy guidance in the Framework at para 77. From the evidence in the plan, my own inspections and the extensive consultations on the subject, I have concluded that these designations do meet the Basic Conditions in that they are local to the community they service, are local in character and not extensive tracts of land, are demonstrably special to the community and hold a particular significance.
- 4.8 I therefore support Policy EN2. To meet the Basic Conditions, **I recommend** that Policy EN2 be modified by minor clarifications, related to Settlement Boundary references (as per EN1), which needs to be followed through to EN2; that the word "projected" be deleted from the plan on page 42; and that the designated sites each be given a number, which is cross-referenced to the mapping references - which should be those on pages 24, 26, 27 and 28, not the summary map; and that all related mapping be given unique reference numbers.

- 4.9 Policy EN3 concerns protection and enhancement of ecological corridors, landscape features and habitats. The only representation was again from Southern Water on the grounds that it could create a barrier to the delivery of essential utility infrastructure. I am not persuaded it does; it will be material consideration in the context of the application of the relevant policies. In terms of clarity, to meet the Basic Conditions, only one modification is necessary; **I recommend** that the word “any” in the last line is replaced by “materially”.
- 4.10 There were no representations regarding Policies EN4 to EN6. Historic England sought changes to the wording of EN7 (and the supporting text, to meet the Basic Conditions. I agree with the suggestions set out in their representations of 10th November 2015 and **I recommend** that the policy and supporting text be modified accordingly. Historic England also had valuable comments on the plan’s treatment of heritage assets – in both description and mapping - and I suggest that these factual matters are taken on board in the plan’s narrative, if it proceeds further.
- 4.11 Policy EN8 concerns the impact of development on views of the surrounding countryside. Natural England argue that some consideration should be given to impacts on the plan area from the national park; though they note that the extent of development may prove insignificant. Given the scope of the plan the need for this extra dimension is not necessary to meet the Basic Conditions.
- 4.12 There are no Health and Wellbeing policies. As in all other cases, the Projects should be gathered into a single set in an Annexe to the plan.

5. Housing growth and development

- 5.1 Chapter 9 of the plan gives an overview of the local housing issues, community feedback on them, and notes the Steering Group’s decision not to undertake any site selection, preferring to work alongside the District Council. The plan does, however, contain five site selection policies. Given the highly constrained settlement boundary, that development outside it will be resisted and that planning permission has already been granted on the Covers site, this is all rather elaborate.
- 5.2 The first policy, H1, supports up to 30 homes on brownfield sites within the Cooksbridge Settlement Boundary and within 5 minutes walk of the railway station. These walking distances are shown on the plan on page 42. Many of these routes stray outside the boundary, so there appears to be a contradiction. To resolve this, in order to be clear and meet the basic conditions, **I recommend** that all the text after the word “Boundary” be deleted and that the walkability distances be removed from the plan on page 42.
- 5.3 In relation to Policy H2, which concerned community benefits from development of over 20 homes, Mr Dodson does not feel that the policy will restrict the housing and community benefits proposals but points out that as he considers the consent on the Covers site should be treated as windfall, that it is difficult to see how the allocation (as he calls it) of 30 homes could be met within the existing boundary. This may well be the case and may be an issue for the emerging Local Plan but it is not an issue in relation to the neighbourhood development plan.
- 5.4 The SDNPA comment that this policy needs some clarity on what constitutes “community-related activities”. “Activities” is not a land use concept. “Facilities” are but are not specified; nor is there evidence to justify such a requirement. In any event, there seems little likelihood that such a policy would ever be used, given the

constraints imposed by other policies. **I recommend** Policy H2 be deleted.

- 5.5 There were no representations on Policies H3 to H10. I have no changes to recommend. Taking up Southern Water's representations, **I recommend** an additional policy to support new or improved utility infrastructure: "New and improved utility infrastructure will be encouraged and supported in order to meet the identified needs of the community, subject to other policies in the plan". The supporting text to note that: Development will be co-ordinated with the provision of infrastructure.

6. Transport and travel

- 6.1 The neighbourhood plan has three policies, together with a further requirement (with no paragraph or policy number). These policies attracted some interest from relevant consultees. Highways England made two comments: on the text of TT1, recommending a Road Safety Audit be included; and asking for clarification of a statement under the Projects. **I recommend** inclusion of a requirement for a Road Safety Audit in appropriate circumstances.
- 6.2 The County Council comment on TT3, in relation to the application of car parking standards. They welcome the policy but are concerned about the additional (un-numbered text) related to 6 homes or more. There is no evidence to support the requirements set out in this last set of policy text, which has no support from the highway authority and so should be removed. **I recommend** that all the last, un-numbered bold text, after the main part of Policy TT3 be deleted.

7. Education

- 7.1 The plan has two policies; one to support extra accommodation at Hamsey School, the other to protect the playing field from development.
- 7.2 The only representation was in support (Dodson).

8. Recreation and sport

- 8.1 Chapter 12 deals with walking, footpaths, horse riding as well as the more formal activities now available at Beechwood Hall and Rural Park. A major concern with the latter is to ensure that any development in Cooksbridge further enhances and integrates the hall and park within the village, together with the provision of safer access. CIL receipts would be directed towards this – a helpful statement of priorities.
- 8.2 There are two policies that relate to protecting and enhancing the park and hall. I don't actually know what RS1 is intended to achieve. It is related to improving accessibility but I can't see how it is to achieve this so **I recommend** it is deleted. RS2 is in two parts – to protect the park from development (though something has gone wrong with the drafting); and to ensure any development is agreed by the Trustees, which is not a land-use policy. To ensure adequate clarity, to meet the Basic Conditions, **I recommend** that RS2 be modified to read: "Beechwood Rural Park will be protected from development except for improvements to the park"; the second sentence is to be deleted from the policy but can be added to the Projects.

9. The Local Economy

- 9.1 This chapter has six policies, covering topics such as broadband, support to local

services and business, as well as rural tourism. The SDNPA had a number of comments. They felt that the planning system had limited control over the retention of businesses and local services, so should be reviewed. I believe they are referring to the fact that LE2 is not sufficiently drafted in land use policy terms. They are also concerned that in LE5 it is not clear what is meant by “small scale integrated”.

9.2 To meet the Basic Conditions, I **recommend** that following:

- LE2 – replace in the first line the word “businesses’ with “business uses”
- LE3 – in second and third lines replace all words after “the environment or” with “materially increased traffic”.
- LE5 – delete the word “integrated” and add after “new buildings” the words “that are well integrated with existing buildings”

10 Conclusions and recommendations

10.1 I congratulate the Parish Council and its volunteers for all the hard work that has clearly gone into the drafting of the plan. And my thanks to both Parish and District Council officers for their support in making the examination so smooth.

10.2 Finally, from my examination of the submitted Hamsey Neighbourhood Plan and its supporting documents, including all the representations made, I have concluded that the making of the plan will meet the Basic Conditions. In summary they are that it must:

- Have regard to national policies and advice;
- Contribute to the achievement of sustainable development;
- Be in general conformity with the strategic policies of the development plan; and
- Not breach, and be otherwise compatible with, European Union and European Convention on Human Rights obligations.

10.3 I have also concluded that:

- The plan has been prepared and submitted for examination by a qualifying body - Hamsey Parish Council;
- The plan has been prepared for an area properly designated; and does not cover more than one neighbourhood plan area;
- The plan does not relate to “excluded development”;
- The plan specifies the period to which it has effect – to 2030; and
- The policies relate to the development and use of land for a designated neighbourhood area, subject to the recommended modifications.

10.4. I recommend that the plan, once modified, should proceed to a Referendum.

10.5 I recommend that the plan, in proceeding to referendum, should have a

Referendum Area that is the same as the Neighbourhood Plan area.

John Parmiter FRICS FRSA MRTPI

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4 January 2016

Annex

It is not my role to improve what is a well-written, succinct document. However, as the plan moves to the next stage, the Parish and District Councils might consider the following:

1. Use of less elaborate paragraph numbering throughout. Not all sub-headings need a number.
2. Using a notation for all photos and a clear set of unique numbering for maps
3. Picking up the corrections to references to the National Park, as set out in in the SDNPA reps.
4. Removing duplicate maps; and providing a key to the map on page 82.
5. Taking up Historic England's suggestions on heritage assets in the supporting narrative of chapter 7.